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IN THE

Supreme Court of the United States

October Term, 1972
No. 72-1195

AMERICAN PIPE AND CONSTRUCTION CO., *et al.*,
Petitioners,

vs.

STATE OF UTAH, *et al.*,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

APPENDIX.

In Two Volumes.

Volume I.
(Pages 1 to 312).

APPENDIX.

CHRONOLOGICAL LIST OF IMPORTANT DATES ON WHICH PLEADINGS WERE FILED, HEARINGS HELD AND ORDERS ENTERED.

Date	Event
1954 to a date four years preceding the filing of the Complaint	Complaint Period for Concrete Pipe Alleged in Proposed Amended Complaint of Interveners (A. 503; R. 441)
1958 to a date four years preceding the filing of the Complaint	Complaint Period for Steel Pipe Alleged in Proposed Amended Complaint of Interveners (A. 503; R. 441)
December 31, 1962	End of Period of Alleged Conspiracies (A. 484, n. 2; R. 449, n. 2)
March 10, 1964	Return of Five Indictments Upon Which Utah Complaint is Based (United States District Court, Southern District of California, Central Division) (A. 11-51; R. 8-46)
June 19, 1964	Criminal Cases Terminated With Judgments on Nolo Pleas (United States District Court, Southern District of California, Central Division) (A. 52-71; R. 48-68)

Date	Event
June 23, 1964	Five Civil False Claims Actions Instituted by United States of America (United States District Court, Southern District of California, Central Division) (A. 72-139; R. 70-134)
October 28, 1964	Amended Complaints Filed by United States of America to Prevent and Restrain Violations of Sherman Act (United States District Court, Southern District of California, Central Division) (A. 140-231; R. 136-228)
December 8, 1967	Consent Decrees Filed and Entered in Civil Actions as to All Defendants Except American Pipe and Construction Co. (United States District Court, Central District of California) (A. 232-83; R. 230-84)
May 24, 1968	Final Judgment as to American Filed (United States District Court, Central District of California) (A. 284-312; R. 286-315)
May 27, 1968	Final Judgment as to American Entered (United States District Court, Central District of California) (A. 284-312; R. 286-315)

Date	Event
December 8, 1968	One Year After Consent Decrees Entered in Civil Actions as to All Defendants Except American Pipe and Construction Co.
May 13, 1969	Complaint Filed by State of Utah (United States District Court, District of Utah, Central Division)* (A. 313-40; R. 317-40)
May 24, 1969	One Year After Final Judgment as to American
December 4, 1969	Order Entered by Judge Martin Pence "that the action herein may not be maintained as a class action and, no parties having joined therein the class action * * * in all respects stands terminated as of May 13, 1969." (United States District Court, Central District of California) (A. 344-45; R. 346-47)
December 12, 1969	Motion to Intervene as Plaintiffs by Certain Respondents Filed (United States District Court, Central District of California) (A. 355-59; R. 359-63)

*Transferred to Judge Pence in United States District Court, Central District of California August 20, 1969, by the Judicial Panel on Multidistrict Litigation.

Date	Event
December 29, 1969	Motion to Intervene as Plaintiffs as to Additional Respondents Filed (United States District Court, Central District of California) (A. 386-87; R. 364-66)
March 30, 1970	Decision of Judge Martin Pence Entered Denying Respondents' Motion to Intervene (United States District Court, Central District of California) (A. 482-502; R. 447-65)
June 23, 1970	Findings of Fact and Order Denying Respondents' Motion to Intervene Filed (United States District Court, Central District of California) (A. 505-08; R. 443-45)
December 11, 1972	Opinion by Divided Court (United States Court of Appeals for the Ninth Circuit) Filed Reversing the Order of the Trial Court Denying Intervention (Appendix E, Petition for Writ of Certiorari, 40-48)
January 31, 1973	Amended Opinion by Divided Court (United States Court of Appeals for the Ninth Circuit) Filed Reversing Order of the Trial Court Denying Intervention (Appendix D, Petition for a Writ of Certiorari, 33-39)

PERTINENT TEXT OF STATUTES, FEDERAL RULES AND REGULATIONS INVOLVED.

1. United States Code, Title 15, Section 15 (Clayton Act of October 15, 1914, c. 323, § 4, 38 Stat. 731):

> "Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee."

2. United States Code, Title 15, Section 15a (Clayton Act of October 15, 1914, c. 323, § 4A, as added July 7, 1955, c. 283, § 1, 69 Stat. 282):

> "Whenever the United States is hereafter injured in its business or property by reason of anything forbidden in the antitrust laws it may sue therefore in the United States district court for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by it sustained and the cost of suit."

3. United States Code, Title 15, Section 15b (Clayton Act of October 15, 1914, c. 323, § 4B, as added July 7, 1955, c. 283, § 1, 69 Stat. 283):

> "Any action to enforce any cause of action under sections 15 or 15a of this title shall be forever barred unless commenced within four years

after the cause of action accrued. No cause of action barred under existing law on the effective date of this section and sections 15a and 16 of this title shall be revived by said sections."

4. United States Code, Title 15, Section 16(b) (Clayton Act of October 15, 1914, c. 323, § 5(b), 38 Stat. 731, as amended July 7, 1955, c. 283, § 2(b), 69 Stat. 283):

"Whenever any civil or criminal proceeding is instituted by the United States to prevent, restrain, or punish violations of any of the antitrust laws, but not including an action under section 15a of this title, the running of the statute of limitations in respect of every private right of action arising under said laws and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one year thereafter: *Provided, however,* That whenever the running of the statute of limitations in respect of a cause of action arising under section 15 of this title is suspended hereunder, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within four years after the cause of action accrued."

5. Rule 3, Federal Rules of Civil Procedure:

"COMMENCEMENT OF ACTION

A civil action is commenced by filing a complaint with the court."

6. Rule 23 (a), (b), and (c), Federal Rules of Civil Procedure:

"CLASS ACTIONS

(a) **Prerequisites to a Class Action.** One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

(b) **Class Actions Maintainable.** An action may be maintained as a class action if the prerequisites of subdivision (a) are satisfied, and in addition:

(1) the prosecution of separate actions by or against individual members of the class would create a risk of

(A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or

(B) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

(2) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final in-

junctive relief or corresponding declaratory relief with respect to the class as a whole; or

(3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include: (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the management of a class action.

(c) **Determination by Order Whether Class Action to be Maintained; Notice; Judgment; Actions Conducted Partially as Class Actions.**

(1) As soon as practicable after the commencement of an action brought as a class action, the court shall determine by order whether it is to be so maintained. An order under this subdivision may be conditional, and may be altered or amended before the decision on the merits.

(2) In any class action maintained under subdivision (b) (3), the court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice shall advise each

member that (A) the court will exclude him from the class if he so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not request exclusion; and (C) any member who does not request exclusion may, if he desires, enter an appearance through his counsel.

(3) The judgment in an action maintained as a class action under subdivision (b) (1) or (b) (2), whether or not favorable to the class, shall include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under subdivision (b) (3), whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in subdivision (c) (2) was directed, and who have not requested exclusion, and whom the court finds to be members of the class.

(4) When appropriate (A) an action may be brought or maintained as a class action with respect to particular issues, or (B) a class may be divided into subclasses and each subclass treated as a class, and the provisions of this rule shall then be construed and applied accordingly."

7. Rule 24(b), Federal Rules of Civil Procedure:

"(b) **Permissive Intervention.** Upon timely application anyone may be permitted to intervene in an action: (1) when a statute of the United States confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for

ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties."

Indictment.

United States District Court, Southern District of California, Central Division.

United States of America vs. American Pipe and Construction Co.; United Concrete Pipe Corp.; Lloyd R. Earl; Robert V. Edwards; and Richard I. Young. Criminal No. 33338.

The Grand Jury charges:

I

DEFINITIONS

1. As used herein, the term:

a. "Concrete pipe" means pipe constructed of concrete either with or without metal components as herein defined, to convey water or sewage, and includes both pressure and nonpressure pipe;

b. "Metal components" refers to steel sheets, skelp, rods, wire and mesh used in the manufacture of concrete pipe;

c. "Western Area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

d. "End users" means customers who purchase and install or have installed concrete pipe to transport drinking water and for sanitation, drainage, irrigation, flood control and similar purposes.

II

THE DEFENDANTS

2. American Pipe and Construction Co. (referred to herein as American) is hereby indicted and made

a defendant herein. Said defendant is a corporation existing under the laws of the State of California with its principal place of business in Monterey Park, California. During the period of time covered by this indictment, said defendant owned a substantial majority of the shares of American Concrete Pipe Co., an Arizona corporation, and controlled said corporation, hereinafter named a co-conspirator. Said defendant and said co-conspirator engaged, among other things, in the business of manufacturing and of selling concrete pipe.

3. United Concrete Pipe Corp. (referred to hereinafter as United) is hereby indicted and made a defendant herein. Said defendant is a corporation organized and existing under the laws of the State of California with its principal place of business in Baldwin Park, California. During the period of time covered by this indictment, said defendant engaged in the business of manufacturing and selling concrete pipe to customers, including customers within the Western Area.

4. Each of the individuals listed below is hereby indicted and made a defendant herein. During the period of time covered by this indictment, each said individual defendant occupied the position with the defendant corporation indicated below:

Name	Position	Defendant Company
Lloyd R. Earl	President	United
Robert V. Edwards	President	American
Richard I. Young	Vice President	United

III
CO-CONSPIRATORS

5. American Concrete Pipe Co., and various other companies and individuals not made defendants in this indictment, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

IV
NATURE OF TRADE AND COMMERCE

6. Concrete pipe is used in the construction of systems to convey water and sewage and is used primarily for the conveyance of drinking water and for sanitation, irrigation, drainage, flood control and similar purposes.

7. The construction of systems utilizing concrete pipe is customarily contracted for by the end user with general contractors on the basis of competitive bids. Prior to submitting such bids, the general contractors usually solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. The award winning contractor usually contracts for the purchase of the pipe from the low quoting pipe manufacturer at the price quoted by the latter. Occasionally the end user contracts directly with a pipe manufacturer for the purchase of concrete pipe and usually on the basis of competitive bidding.

8. The corporate defendants are the principal manufacturers of concrete pipe in the Western Area and

during the period 1958 through 1961 their average annual sales of concrete pipe in the Western Area were at least $41,500,000. Because of the relatively limited number of manufacturers of concrete pipe, general contractors and end users frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench side or as near as possible to the place where it will be installed. During the period of time covered by this indictment, the defendants herein have manufactured substantial quantities of concrete pipe at their plants within the Western Area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said concrete pipe moves in a continuous and uninterrupted flow from the place of manufacture, including the plants of defendants herein, to points of installation outside the State where said pipe was manufactured.

9. Most concrete pipe is reinforced with metal components as it is manufactured both to strengthen the pipe and particularly with respect to concrete pressure pipe, to make it watertight. The defendant manufacturers purchase said metal components in anticipation of orders for concrete pipe or to enable them to fill existing orders for concrete pipe. Substantial quantities

of the metal components which the defendants use in manufacturing concrete pipe within the Western Area are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the metal components is necessary to the manufacture and sale of concrete pipe by the defendants in the Western Area and the defendants and co-conspirators are conduits through which said metal components flow in a continuous uninterrupted stream in interstate commerce from the place where said components are produced to the place within the Western Area where the components are incorporated into concrete pipe and on to the final site where said pipe is installed.

10. Any restraint upon free competition in the production or sale of concrete pipe in the Western Area necessarily and directly restrains and affects the interstate flow of concrete pipe and the interstate flow of the metal components used in the construction of said pipe.

V

OFFENSE CHARGED

11. Beginning in or prior to the year 1954, and continuing thereafter until at least August 1962, the exact dates being to the grand jurors unknown, the defendants and co-conspirators engaged in an unlawful combination and conspiracy in restraint of the hereinbefore described interstate trade and commerce in violation of Section 1 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. Section 1, commonly known as the Sherman Act.

12. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which were:

a. To submit collusive and rigged bids for the sale of concrete pipe;

b. To allocate and divide orders for the purchase of concrete pipe among themselves.

13. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which, as hereinbefore alleged, they combined and conspired to do, including, among others, the following things:

a. Defendants and co-conspirators held periodic meetings to tally past orders and to discuss prospective orders for the purpose of allocating prospective orders among said defendants and co-conspirators according to pre-agreed percentages; and

b. At such meetings and in subsequent telephone conversations defendants and co-conspirators agreed between and among themselves as to which manufacturer would make the low bid and which manufacturers would submit higher complementary bids not intended to win awards on such jobs. Jobs for the following end users, among others, were thus allocated among the corporate defendants:

Metropolitan Water District of Southern California; East Bay Municipal Utility District, Oakland, California; San Diego County Water Authority; Los Angeles County Flood Control District; Calleguas Municipal Water District; City of San

Diego; Orange County Sanitation District; California Division of Highways; Los Angeles Department of Water and Power; City of Phoenix, Arizona; City of Everett, Washington; California Department of Water Resources; Contra Costa Sanitary District, California; United States Bureau of Reclamation, Placerville and San Joaquin, California; United States Corps of Engineers, Walla Walla, Washington; Sonoma County Flood Control and Water Conservation District; El Toro Water District and The Los Alisos Water District, Orange County, California; Humboldt Bay Municipal Water District, California; City of Aberdeen, Washington; Santiago Aqueduct Commission, Santa Ana, California.

VI

EFFECTS OF THE CONSPIRACY

14. The aforesaid combination and conspiracy had, among others, the following effects:

a. Competition between and among the defendants and co-conspirators was restricted and suppressed;

b. General contractors and other awarding authorities were deprived of the right to receive competitive bids and quotations for concrete pipe and were deceived into believing collusive and non-competitive bids and quotations were competitive; and

c. The cost of concrete pipe in the Western Area was arbitrarily increased.

VII

JURISDICTION AND VENUE

15. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of California, Central Division, and within the jurisdiction of this Court, within five years preceding the return of this indictment.

Dated:

A TRUE BILL

Foreman

BARBARA J. SVEDBERG
Attorney, Department of Justice

DONALD J. FALLON
Attorney, Department of Justice

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

STANLEY E. DISNEY
Attorney, Department of Justice

FRANCIS C. WHELAN
United States Attorney

Filed March 10, 1964.

[Endorsement omitted in printing]

Indictment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. Kaiser Steel Corporation; United States Steel Corporation; P. M. Cobb; and Ernest L. Ilsley. Criminal No. 33339.

The Grand Jury charges:

I

DEFINITIONS

1. As used herein, the term:

(a) "Steel large diameter pressure pipe," referred to herein as steel LDP pipe, means heavy walled welded steel pipe which is manufactured in diameters of over 24 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Western Area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho, and Hawaii;

(c) "End users" means customers who purchase and install or have installed steel LDP pipe in systems primarily for the conveyance of water or sewage under pressure.

II

THE DEFENDANTS

2. Kaiser Steel Corporation (referred to herein as Kaiser) is hereby indicted and made a defendant herein. Said defendant is a Nevada corporation with its principal offices in Oakland, California. During the period of time covered by this indictment, said defendant engaged, among other things, in the production

and sale of steel LDP pipe to customers within the Western area.

3. United States Steel Corporation (referred to herein as U.S. Steel) is hereby indicted and made a defendant herein. Said defendant is a New Jersey corporation which in 1948 acquired the Consolidated Western Steel Corporaton, and which, during the period of the conspiracy, it operated as a division of U.S. Steel, with its principal offices in Commerce, California. During the period of time covered by this indictment, said defendant manufactured and sold steel LDP pipe at plants within the Western area a substantial majority of which it sold to customers within said area.

4. Each of the individuals listed below is hereby indicted and made a defendant herein. During the period of time covered by this indictment each said defendant occupied the position with the defendant corporation indicated below:

Name	Position	Defendant Company
P. M. Cobb	Vice President, Sales, Consolidated Western Division	U.S. Steel
Ernest L. Ilsley	Vice President and General Manager, Napa-Fontana Fabricating Division	Kaiser

III

CO-CONSPIRATORS

5. Southwest Welding and Manufacturing Company and certain officers and employees of Southwest and of the corporate defendants participated as co-conspirators with the defendants in the offense alleged herein and performed acts and made statements in furtherance thereof.

IV

NATURE OF TRADE AND COMMERCE

6. Steel LDP pipe is used for the conveyance of drinking water under pressure and for irrigation and sanitation systems. The construction of systems utilizing steel LDP pipe is customarily contracted for by the end user with general contractors on the basis of competitive bids. Prior to submitting such bids, the general contractors usually solicit quotations from pipe manufacturers or other suppliers for the purchase price of the pipe delivered to the site where the pipe is to be installed. The award winning contractor usually contracts for the purchase of the pipe from the low quoting pipe manufacturer or supplier at the price quoted. Occasionally the end user contracts directly with a pipe manufacturer or other supplier for the purchase of steel LDP pipe and usually on the basis of competitive bidding.

7. The corporate defendants are the principal manufacturers of steel LDP pipe in the Western area. Total sales of steel LDP pipe in the Western area during the period 1958 through 1961 by the corporate defendants averaged at least $7,000,000 annually. Because of the relatively limited number of manufacturers of steel LDP pipe, general contractors and end users frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench site or as near as possible to the place

where it will be installed. During the period of time covered by this indictment, the defendants herein have manufactured substantial quantities of steel LDP pipe at their plants within the Western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said steel LDP pipe moves in a continuous and uninterrupted flow from the place of manufacture, including the plants of defendants herein, to points of installation outside the State where said pipe was manufactured.

8. Steel LDP pipe is fabricated largely from steel plate. The defendant manufacturers purchase or produce said steel plate in anticipation of orders for steel LDP pipe or to enable them to fill existing orders for steel LDP pipe. Substantial quantities of the steel plate which the defendants use in manufacturing steel LDP pipe within the Western area are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the steel plate is necessary to the manufacture and sale of steel LDP pipe by the defendants in the Western area and the defendants and co-conspirators are conduits through which said steel plate flows in a continuous uninterrupted stream in interstate commerce from the place where said plate is produced to the place within the Western area where the plate is fabricated into steel LDP pipe and on to the final site where said pipe is installed.

9. Any restraint upon free competition in the production or sale of steel LDP pipe in the Western area necessarily and directly restrains and affects the inter-

state flow of steel LDP pipe and the interstate flow of the steel plate used in the fabrication of said pipe.

V

OFFENSE CHARGED

10. Beginning sometime prior to 1955, and continuing thereafter until at least August 1962, the exact dates being to the grand jurors unknown, the defendants and co-conspirators engaged in an unlawful combination and conspiracy in restraint of the hereinbefore described interstate trade and commerce in violation of Section 1 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. Section 1, commonly known as the Sherman Act.

11. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which were:

(a) To submit collusive and rigged bids for the sale of steel LDP pipe;

(b) To allocate and divide orders for the purchase of steel LDP pipe among themselves.

12. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which, as hereinbefore alleged, they combined and conspired to do, including, among others, the following things:

(a) Defendants and co-conspirators held periodic meetings to tally past orders and to discuss prospective orders for the purpose of allocating prospective orders among said defendants and co-

conspirators according to pre-agreed percentages; and

(b) At such meetings and in subsequent telephone conversations defendants and co-conspirators agreed between and among themselves as to which manufacturer would make the low bid and which manufacturers would submit higher complementary bids not intended to win awards on such jobs. Jobs for the following end users, among others, were thus allocated among the defendants: Metropolitan Water District of Southern California; East Bay Municipal Utility District, Oakland, California; San Diego County Water Authority, California; Calleguas Municipal Water District, California; City of San Diego, California; Los Angeles Department of Water and Power, California; El Toro Water and The Los Alisos Water District, Orange County, California; Santiago Aqueduct Commission, Santa Ana, California.

VI

EFFECTS OF THE CONSPIRACY

13. The aforesaid combination and conspiracy had, among others, the following effects:

(a) Competition between and among the defendants and co-conspirators was restricted and suppressed;

(b) General contractors and end users were deprived of the right to receive competitive bids and quotations for steel LDP pipe and were deceived into believing collusive and noncompetitive bids and quotations were competitive; and

(c) The cost of steel LDP pipe in the Western area was arbitrarily increased.

VII

JURISDICTION AND VENUE

14. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of California, Central Division, and within the jursdiction of this Court, within five years preceding the return of this indictment.

Dated:

A TRUE BILL

Foreman

BARBARA J. SVEDBERG
Attorney, Department of Justice

DONALD J. FALLON
Attorney, Department of Justice

/s/ WILLIAM H. ORRICK, JR.
William H. Orrick, Jr.
Assistant Attorney General

/s/ HARRY G. SKLARSKY
Harry G. Sklarsky
Attorney, Department of Justice

STANLEY E. DISNEY
Attorney, Department of Justice

FRANCIS C. WHELAN
United States Attorney

Filed March 10, 1964.

[Endorsement omitted in printing]

Indictment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. United Concrete Pipe Corp.; American Pipe and Construction Co.; Kaiser Steel Corporation; United States Steel Corporation; P. M. Cobb; Lloyd R. Earl; Robert V. Edwards; Ernest L. Ilsley; and Richard I. Young. Criminal No. 33340.

The Grand Jury charges:

I

DEFINITIONS

1. As used herein, the term:

(a) 'Steel large diameter pressure pipe", (referred to herein as steel LDP pipe), means heavy-walled welded steel pipe, manufactured from steel plate, in diameters over 24 inches and sold for the conveyance of water and sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Concrete large diameter pressure pipe", (referred to herein as concrete LDP pipe) means concrete pressure pipe, which ordinarily utilizes steel sheets or skelp in its manufacture, in diameters over 24 inches, sold for the conveyance of water and sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(c) "Alternate LDP pipe" refers to LDP pipe which is manufactured and sold, or offered for sale in jobs where the specifications permit the use of either concrete LDP pipe or steel LDP pipe;

(d) "Metal Components" refers to steel plate, sheets, skelp, rods, wires and mesh used in the production of alternate LDP pipe;

(e) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii;

(f) "End users" means customers who purchase and install or have installed alternate LDP pipe in systems primarily for the conveyance of water or sewage under pressure.

II
DEFENDANTS

2. American Pipe and Construction Co. (referred to herein as American) is hereby indicted and made a defendant herein. Said defendant is a corporation existing under the laws of the State of California with its principal place of business in Monterey Park, California. During the period of time covered by this indictment said defendant owned a substantial majority of the shares of American Concrete Pipe Co., an Arizona corporation, and controlled said corporation, hereinafter named a co-conspirator. Said defendant and said co-conspirator engaged, among other things, in the business of manufacturing and of selling concrete LDP pipe including alternate LDP pipe to customers located in the Western area.

3. Kaiser Steel Corporation (referred to herein as Kaiser) is hereby indicted and made a defendant herein. Said defendant is a Nevada corporation with its principal offices in Oakland, California. During the pe-

riod of time covered by this indictment, said defendant engaged, among other things, in the production and sale of steel LDP pipe including alternate LDP pipe to customers within the Western area.

4. United Concrete Pipe Corp. (referred to herein as United) is hereby indicted and made a defendant herein. Said defendant is a corporation organized and existing under the laws of the State of California with its principal place of business in Baldwin Park, California. During the period of time covered by this indictment, said defendant engaged in the business of manufacturing and selling concrete LDP pipe including alternate LDP pipe to customers within the Western

herein as U.S.
defendant herein. Said defendant is a
poration which in 1948 acquired the Consolidated Western Steel Corporation, which, during the period of the conspiracy, it operated as a division of U.S. Steel with its principal offices in Commerce, California. During the period of time covered by this indictment, said defendant manufactured and sold steel LDP pipe, including alternate LDP pipe, at plants within the Western area, a substantial majority of which it sold to customers within said area.

6. Each of the individuals listed below is hereby indicted and made a defendant herein. During the period of time covered by this indictment each said defend-

ant occupied the position with the defendant corporation indicated below:

Name	Position	Defendant Company
P. M. Cobb	Vice President, Sales, Consolidated Western Division	U.S. Steel
Lloyd R. Earl	President	United
Robert V. Edwards	President	American
Ernest L. Ilsley	Vice President and General Manager Napa-Fontana Fabricating Division	Kaiser
Richard I. Young	Vice President, Sales	United

III

CO-CONSPIRATORS

7. Southwest Welding and Manufacturing Company, American Concrete Pipe Co., of Phoenix, Ari- [redacted] companies herein and performed [redacted] furtherance thereof.

IV

NATURE OF TRADE AND COMMERCE

8. The corporate defendants are the principal manufacturers of alternate LDP pipe in the Western area. Total sales of alternate LDP pipe in the Western area by the corporate defendants during the period 1958 through 1961 averaged at least $15,000,000 annually. Said pipe is used primarily for the conveyance of drinking water, but is also utilized in systems for the transportation of sewage and of irrigation water.

9. The construction of systems utilizing alternate LDP pipe is customarily contracted for by the end user with general contractors on the basis of competitive bids. Customarily the end users draft or have drafted the specifications where this is appropriate, so that either concrete LDP pipe or steel LDP pipe can be used in the system. Prior to submitting bids to the end user, the general contractor usually solicits quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where it is to be installed. The award winning contractor usually contracts for the purchase of the pipe from the low quoting pipe manufacturer at the price quoted by the latter. Occasionally the end user contracts directly with the pipe manufacturer for the purchase of said pipe and usually on the basis of competitive bidding.

10. The specifications for alternate LDP pipe require that the pipe be lined and/or coated with concrete. When the steel LDP pipe manufacturers plan to submit bids or quotations on an alternate LDP pipe job, they, in turn, solicit quotations or bids from the concrete LDP pipe manufacturers for the performance of this service. The cost of this service is then incorporated in the quotation or bid submitted to the general contractors or end users by the steel LDP pipe manufacturer.

11. Because of the relatively limited number of manufacturers of alternate LDP pipe, general contractors and end users, where the specifications permit the use of alternate LDP pipe, customarily solicit bids and

quotations both from manufacturers of concrete LDP pipe and from manufacturers of steel LDP pipe, and frequently they solicit bids from said manufacturers outside the State where said pipe is to be installed. Manufacturers of alternate LDP pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver, or have delivered, said pipe direct to the trench side or as near as possible to the place where it is to be installed. During the period of time covered by this indictment, the defendants herein have manufactured substantial quantities of alternate LDP pipe at their plants within the Western area, and in response to solicitations calling for bids on alternate LDP pipe, have shipped and delivered said pipe to job sites outside the State where it was manufactured. Thus said alternate LDP pipe moves in a continuous and uninterrupted flow from the place of manufacture, including the plants of the defendants herein, to points of installation outside the State where said pipe was manufactured.

12. Substantial amounts of metal components are used in the manufacture of alternate LDP pipe. The defendant manufacturers of alternate LDP pipe often obtain said metal components in anticipation of orders for said pipe or to enable them to fill existing orders for said pipe. Substantial quantities of said metal components, used in the manufacture of alternate LDP pipe within the Western area, are produced outside the State where said pipe is manufactured.

13. The movement in interstate commerce of metal components used in alternate LDP pipe is necessary to the manufacture and sale of alternate LDP pipe by the defendants in the Western area and the defendants and co-conspirators are conduits through which said metal components flow in a continuous, uninterrupted stream in interstate commerce from the place where produced to the place within the Western area where said metal components are incorporated into alternate LDP pipe and on to the final site where said pipe is installed. Any restraint upon free competition in the production or sale of alternate LDP pipe in the Western area necessarily and directly restrains and affects the interstate flow of alternate LDP pipe and the interstate flow of said metal components used in the manufacture of alternate LDP pipe.

V

OFFENSE CHARGED

14. Beginning sometime prior to 1955, and continuing thereafter until at least August 1962, the exact dates being to the grand jurors unknown, the defendants and co-conspirators engaged in an unlawful combination and conspiracy in restraint of the hereinbefore described interstate trade and commerce in violation of Section 1 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. Section 1, commonly known as the Sherman Act.

15. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding and

concert of action among the defendants and co-conspirators to allocate and divide solicitations for alternate LDP pipe so that the manufacturers of steel LDP pipe would obtain approximately fifty per cent of the orders resulting from said solicitations, and the manufacturers of concrete LDP pipe would obtain approximately fifty per cent of the orders resulting from said solicitations, the amount of business involved in the lining and coating of the steel LDP pipe by the concrete LDP pipe manufacturers being included in the share to be obtained by the concrete LDP pipe manufacturers.

16. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which, as hereinbefore alleged, they combined and conspired to do, including among others, the following things:

(a) Tallies were maintained by representatives of each corporate defendant for the purpose of keeping a record of whether a steel LDP pipe manufacturer or a concrete LDP pipe manufacturer obtained each job. Information needed for such tallies was often obtained at meetings or by telephone conversations between the defendants or co-conspirators.

(b) Jobs for the following end users, among others, were allocated to the steel LDP pipe group or the concrete LDP pipe group of manufacturers at meetings or by telephone conversations between the defendants and co-conspirators: Metropolitan

Water District of Southern California; East Bay Municipal Utility District, Oakland, California; San Diego County Water Authority; Calleguas Municipal Water District; City of San Diego; Los Angeles Department of Water and Power; City of Phoenix, Arizona; El Toro Water District and The Los Alisos Water District, Orange County, California; Humboldt Bay Municipal Water District, California; Santiago Aqueduct Commission, Santa Ana, California.

VI

EFFECTS OF THE CONSPIRACY

17. The aforesaid combination and conspiracy had, among others, the following effects:

(a) Competition between and among the defendants and co-conspirators was restricted and suppressed;

(b) General contractors and other awarding authorities were deprived of the right to receive competitive bids and quotations for alternate LDP pipe and were deceived into believing collusive and noncompetitive bids and quotations were competitive; and

(c) The cost of alternate LDP pipe in the Western area was arbitrarily increased.

VII

JURISDICTION AND VENUE

18. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of California, Central Division, and within the

jurisdiction of this Court, within five years preceding the return of this indictment.

Dated:

A TRUE BILL

Foreman

BARBARA J. SVEDBERG
Attorney, Department of Justice

DONALD J. FALLON
Attorney, Department of Justice

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

STANLEY E. DISNEY
Attorney, Department of Justice

FRANCIS C. WHELAN
United States Attorney

Filed March 10, 1964.

[Endorsement omitted in printing]

Indictment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. United States Industries, Inc.; American Pipe and Construction Co.; Smith-Scott, Inc.; United Concrete Pipe Corp.; United States Steel Corporation; D. N. Chamberlain; Robert V. Edwards; D. A. Stromsoe; and Richard I. Young. Criminal No. 33341.

The Grand Jury charges:

I

DEFINITIONS

1. As used herein, the term:

(a) "Steel small diameter pressure pipe", referred to herein as steel SDP pipe, means thin walled welded steel pipe, manufactured from steel plate in diameters of 12 inches to 48 inches and sold for the conveyance of water and sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Concrete small diameter pressure pipe" referred to herein as concrete SDP pipe, means concrete cylinder pipe, which utilizes steel sheet or skelp in its manufacture, in diameters from 12 inches to 48 inches and sold for the conveyance of water or sewage under internal pressure exceeding 115 feet of head or 50 pounds per square inch.

(c) "Alternate SDP pipe" refers to SDP pipe which is manufactured and sold, or offered for

sale in jobs where the specifications permit the use of either concrete SDP pipe or steel SDP pipe;

(d) "Metal components" refers to steel plate, sheets, skelp, rods, wires and mesh used in the production of alternate SDP pipe;

(e) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii;

(f) "End users" means customers who purchase and install or have installed alternate SDP pipe.

II

DEFENDANTS

2. American Pipe and Construction Co. (referred to herein as American) is hereby indicted and made a defendant herein. Said defendant is a corporation existing under the laws of the State of California with its principal place of business in Monterey Park, California. During the period of time covered by this indictment said defendant owned a substantial majority of the shares of American Concrete Pipe Co., an Arizona corporation, and controlled said corporation, hereinafter named a co-conspirator. Said defendant and said co-conspirator engaged, among other things, in the business of manufacturing and of selling concrete SDP pipe.

3. Smith-Scott, Inc. (referred to herein as Smith-Scott) is hereby indicted and made a defendant herein. Said defendant is a corporation existing under the laws of the State of California with its principal place

of business at 6501 Clay Street, Riverside, California. During the period of time covered by this indictment, said defendant engaged in the business of manufacturing and selling and offering for sale Steel SDP pipe.

4. United Concrete Pipe Corp. (referred to herein as United) is hereby indicted and made a defendant herein. Said defendant is a corporation organized and existing under the laws of the State of California with its principal place of business in Baldwin Park, California. During the period of time covered by this indictment; said defendant engaged in the business of manufacturing and selling concrete SDP pipe to customers within the Western area.

5. United States Industries, Inc. (referred to herein as USI) is hereby indicted and made a defendant herein. Said defendant is a Delaware corporation which in 1955 purchased the assets of Southern Pipe & Casing Company, consisting of, among other things, a plant for manufacturing steel SDP pipe which, during the period covered by this indictment, it operated as the Tubular Products Division of USI with headquarters in Azusa, California. Said defendant, during this period, also operated a plant manufacturing steel SDP pipe in Hawaii.

6. United States Steel Corporation (referred to herein as U.S. Steel) is hereby indicted and made a defendant herein. Said defendant is a New Jersey corporation which in 1948 acquired the Consolidated Western Steel Corporation, which during the period of the conspiracy, it operated as a division of U.S. Steel. Said defendant manufactures steel SDP pipe at a plant in Linden, Utah, which is sold directly or through distributors to customers in the Western area.

7. Each of the individuals listed below is hereby indicted and made a defendant herein. During the period of time covered by this indictment each said defendant occupied the position with the defendant corporation indicated below:

Name	Position	Defendant Company
D. N. Chamberlain	Executive Vice President Tubular Division	USI
Robert V. Edwards	President	American
D. A. Stromsoe	President Tubular Division	USI
Richard I. Young	Vice President Sales	United

III

CO-CONSPIRATORS

8. American Concrete Pipe Co., of Phoenix, Arizona, and various other companies and individuals not made defendants in this indictment, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

IV

NATURE OF TRADE AND COMMERCE

9. The corporate defendants are the principal manufacturers of alternate SDP pipe in the Western area. During the period 1957 through 1961, their average annual sales of alternate SDP pipe in the Western area were approximately $18,000,000. Said pipe is used for the conveyance of drinking water under pressure and for irrigation and sanitation systems.

10. The construction of systems utilizing alternate SDP pipe is customarily contracted for by the end user with general contractors on the basis of competitive

bids. Customarily the end users draft or have drafted the specifications where this is appropriate, so that either concrete SDP pipe or steel SDP pipe can be used in the system. Prior to submitting bids to the end user, the general contractor usually solicits quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where it is to be installed. The award winning contractor usually contracts for the purchase of the pipe from the low quoting pipe manufacturer at the price quoted by the latter. Occasionally the end user contracts directly with the pipe manufacturers for the purchase of alternate SDP pipe and usually on the basis of competitive bidding.

11. Because of the relatively limited number of manufacturers of alternate SDP pipe, general contractors and end users, where the specifications permit the use of alternate SDP pipe, customarily solicit bids both from manufacturers of concrete SDP pipe and from manufacturers of steel SDP pipe, and frequently they solicit bids from said manufacturers outside the State where said pipe is to be installed. Manufacturers of alternate SDP pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver, or have delivered, said pipe direct to the trench side or as near as possible to the place where it is to be installed. During the period of time covered by this indictment, the defendants herein have manufactured substantial quantities of alternate SDP pipe at their plants within the Western area, and in response to solicitations calling for bids on alternate SDP pipe, have shipped and delivered said pipe to job sites outside the State where it was manufactured. Thus said

alternate SDP pipe moves in a continuous and uninterrupted flow from the place of manufacture, including the plants of the defendants herein, to points of installation outside the State where said pipe was manufactured.

12. Substantial amounts of metal components are used in the manufacture of alternate SDP pipe. The defendant manufacturers of alternate SDP pipe often obtain metal components in anticipation of orders for said pipe or to enable them to fill existing orders. Substantial quantities of metal components used in the manufacture of alternate SDP pipe within the Western area are produced outside the State where said pipe is manufactured.

13. The movement in interstate commerce of metal components used in alternate SDP pipe is necessary to the manufacture and sale of alternate SDP pipe by the defendants in the Western area and the defendants and co-conspirators are conduits through which said metal components flow in a continuous, uninterrupted stream in interstate commerce from the place where produced to the place within the Western area where said metal components are incorporated into alternate SDP pipe and on to the final site where said pipe is installed. Any restraint upon free competition in the production or sale of alternate SDP pipe in the Western area necessarily and directly restrains and affects the interstate flow of alternate SDP pipe and the interstate flow of said metal components used in the manufacture of alternate SDP pipe.

V

OFFENSE CHARGED

14. Beginning sometime prior to 1955, and continuing thereafter until at least January 1962, the exact dates being to the grand jurors unknown, the defendants and co-conspirators engaged in an unlawful combination and conspiracy in restraint of the hereinbefore described interstate trade and commerce in violation of Section 1 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. Section 1, commonly known as the Sherman Act.

15. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendants and co-conspirators to allocate and divide alternate SDP pipe jobs so that the manufacturers of steel SDP pipe considered as a group on the one hand, and the manufacturers of concrete SDP pipe considered together on the other hand, would each obtain an agreed upon per cent of all alternate SDP pipe jobs.

16. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which, as hereinbefore alleged, they combined and conspired to do, including among others, the following things:

(a) Tallies were maintained by representatives of each corporate defendant for the purpose of keeping a record of whether a steel SDP pipe manufacturer or a concrete SDP pipe manufacturer obtained each job. Information needed for such tallies was often obtained at meetings or by telephone conversations between the defendants or co-conspirators.

(b) Jobs for the following end users, among others, were allocated to the steel SDP pipe group or the concrete SDP pipe group of manufacturers at meetings or by telephone conversations between the defendants and co-conspirators: East Bay Municipal Utility District, Oakland, California; City of Phoenix, Arizona; Eastern Municipal Water District, California; United States Corps of Engineers, Walla Walla, Washington; Sonoma County Flood Control and Water Conservation District, Sonoma, California; Solano Irrigation District, California; Las Virgenes Municipal Water District, Calabasas, California; Marin Municipal Water District, California; North Marin County Water District, California; City of Long Beach; Calleguas Metropolitan Water District; City of Fountain Valley, California; Otay Municipal Water District, California; Moulton Niguel Water District, Santa Ana, California; City of Oceanside, California; United States Bureau of Reclamation, California; Goleta County Water District, California.

VI

EFFECTS OF THE CONSPIRACY

17. The aforesaid combination and conspiracy had, among others, the following effects:

(a) Competition between and among the defendants and co-conspirators was restricted and suppressed;

(b) General contractors and other awarding authorities were deprived of the right to receive competitive bids and quotations for alternate SDP pipe and were deceived into believing collusive

and noncompetitive bids and quotations were competitive; and

(c) The cost of alternate SDP pipe in the Western area was arbitrarily increased.

VII

JURISDICTION AND VENUE

18. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of California, Central Division, and within the jurisdiction of this Court, within five years preceding the return of this indictment.

Dated:

A TRUE BILL

Foreman

BARBARA J. SVEDBERG
Attorney, Department of Justice

DONALD J. FALLON
Attorney, Department of Justice

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

HARRY G. SKLARSKY
Attorney, Department of Justice

STANLEY E. DISNEY
Attorney, Department of Justice

FRANCIS C. WHELAN
United States Attorney

Filed March 10, 1964.

[Endorsement omitted in printing].

Indictment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. United States Steel Corporation; Smith-Scott, Inc.; United States Industries, Inc.; D. N. Chamberlain; P. M. Cobb; and William N. Scott. Criminal No. 33342.

The Grand Jury charges:

I

DEFINITIONS

1. As used herein, the term:

(a) "Steel small diameter pressure pipe," referred to herein as steel SDP pipe, means thin walled welded steel pipe which is manufactured in diameters of 4 inches to 48 inches and sold for the conveyance of water under internal pressures exceeding 115 feet of head or 50 pound per square inch;

(b) "Western Area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho, and Hawaii;

(c) "End users" means customers who purchase and install or have installed steel SDP pipe in systems primarily for the conveyance of water or sewage under pressure.

II

THE DEFENDANTS

2. Smith-Scott, Inc. (referred to herein as Smith-Scott) is hereby indicted and made a defendant herein. Said defendant is a corporation existing under the laws of the State of California with its principal place of business at 6501 Clay Street, Riverside, California. During the period of time covered by this indictment,

said defendant engaged, among other things, in the production and sale of steel SDP pipe to customers located in the Western area.

3. United States Industries, Inc. (referred to herein as USI) is hereby indicted and made a defendant herein. Said defendant is a Delaware Corporation which in 1955 purchased the assets of Southern Pipe & Casing Company, consisting of, among other things, a plant for manufacturing steel SDP pipe which, during the period covered by the indictment, it operated as the Tubular Products Division of USI with headquarters at Azusa, California. Said defendant, during this period, also operated a plant for the manufacture of steel pipe in Hawaii.

4. United States Steel Corporation (referred to herein as U.S. Steel) is hereby indicted and made a defendant herein. Said defendant is a New Jersey corporation which in 1948 acquired the Consolidated Western Steel Corporation, which during the period of the conspiracy it operated as a division of U.S. Steel. Said defendant manufactures steel SDP pipe at a plant in Linden, Utah, which is sold directly or through distributors to customers in the Western area.

5. Each of the individuals listed below is hereby indicted and made a defendant herein. During the period of time covered by this indictment each said defendant occupied the position with the defendant corporation indicated below:

Name	Position	Defendant Company
D. N. Chamberlain	Executive Vice President	Tubular Division of USI
P. M. Cobb	Vice President, Sales	Consolidated Western Division of U.S. Steel
William N. Scott	President and Director	Smith-Scott

III
CO-CONSPIRATORS

6. Certain individuals, officers, and employees of said defendants, not named defendants in this indictment, participated as co-conspirators with said defendants in the offense alleged herein and performed acts and made statements in furtherance thereof.

IV
TRADE AND COMMERCE INVOLVED

7. Steel SDP pipe is used for the conveyance of drinking water under pressure and for irrigation and sanitation systems. The construction of systems utilizing steel SDP pipe is customarily contracted for by the end user with general contractors on the basis of competitive bids. Prior to submitting such bids, the general contractors usually solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. The award winning contractor usually contracts for the purchase of the pipe from the low quoting pipe manufacturer at the price quoted by the latter. Occasionally the end user contracts directly with a pipe manufacturer for the purchase of steel SDP pipe and usually on the basis of competitive bidding.

8. The corporate defendants are the principal manufacturers of steel SDP pipe in the Western area. Total sales of steel SDP pipe in the Western area during the conspiracy herein alleged by the corporate defendants averaged at least $13,500,000 annually. Because of the relatively limited number of manufacturers of steel SDP pipe, general contractors and end users frequently solicit bids and quotations for said pipe from manufacturers outside the State where said pipe

is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench site or as near as possible to the place where it will be installed. During the period of time covered by this indictment, the defendants herein have manufactured substantial quantities of steel SDP pipe at their plants within the Western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said steel SDP pipe moves in a continuous and uninterrupted flow from the place of manufacture, including the plants of defendants herein, to points of installation outside the State where said pipe was manufactured.

9. Steel SDP pipe is fabricated largely from steel plate. The defendant manufacturers purchase or produce said steel plate in anticipation of orders for steel SDP pipe or to enable them to fill existing orders for steel SDP pipe. Substantial quantities of the steel plate which the defendants use in manufacturing steel SDP pipe within the Western area are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the steel plate is necessary to the manufacture and sale of steel SDP pipe by the defendants in the Western area and the defendants and co-conspirators are conduits through which said steel plate flows in a continuous uninterrupted stream in interstate commerce from the place where said plate is produced to the place within the Western area where the plate is fabricated into steel SDP pipe and on to the final site where said pipe is installed.

10. Any restraint upon free competition in the production or sale of steel SDP pipe in the Western area necessarily and directly restrains and affects the interstate flow of steel SDP pipe and the interstate flow of the steel plate used in the fabrication of said pipe.

V

OFFENSE CHARGED

11. Beginning at least as early as May 1958, and continuing thereafter until at least January 1962, the exact dates being to the grand jurors unknown, the defendants and co-conspirators engaged in an unlawful combination and conspiracy in restraint of the hereinbefore described interstate trade and commerce in violation of Section 1 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. § 1, commonly known as the Sherman Act.

12. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators, the substantial terms of which were:

(a) To submit collusive and rigged bids and quotations for the sale of steel SDP pipe;

(b) To allocate and divide orders for the purchase of steel SDP pipe among themselves.

13. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which, as hereinbefore alleged, they combined and conspired to do, including, among others, the following things:

(a) Defendants and co-conspirators held periodic meetings to tally past orders and to discuss prospective orders for the purpose of allocating

prospective orders among defendants and co-conspirators according to pre-agreed percentages; and

(b) At such meetings and in subsequent telephone conversations defendants and co-conspirators agreed between and among themselves as to which manufacturer would make the low bid and which manufacturers would submit higher complementary bids not intended to win awards on such jobs. Jobs for the following end users, among others, were thus allocated among the defendants: East Bay Municipal Utility District; City of Phoenix, Arizona; Eastern Municipal Water District, California; Las Virgenes Municipal Water District, Calabasas, California; Marin Municipal Water District, California; North Marin County Water District, California; Calleguas Metropolitan Water District, California; City of Fountain Valley, California; Otay Municipal Water District, California; United States Bureau of Reclamation, California; Goleta County Water District, California.

VI

EFFECTS OF THE CONSPIRACY

14. The aforesaid combination and conspiracy had, among others, the following effects:

(a) Competition between and among the defendants was restricted and suppressed;

(b) General contractors and end users were deprived of the right to receive competitive bids and quotations for steel SDP pipe and were deceived into believing collusive and noncompetitive bids and quotations were competitive; and

(c) The cost of steel SDP pipe in the Western area was arbitrarily increased.

VII

JURISDICTION AND VENUE

15. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of California, Central Division, and within the jurisdiction of this Court, within five years preceding the return of this indictment.

Dated:

A TRUE BILL

Foreman

BARBARA J. SVEDBERG
Attorney, Department of Justice

DONALD J. FALLON
Attorney, Department of Justice

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

STANLEY E. DISNEY
Attorney, Department of Justice

FRANCIS C. WHELAN
United States Attorney

Filed March 10, 1964.

[Endorsement omitted in printing].

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. American Pipe and Construction Co. Criminal No. 33338.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Hill, Farrer & Burrill by Frank D. MacDowell and William McD. Miller.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Five Thousand Dollars ($5,000.00)

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan,
L. A. Brosnan, Deputy

Note: This Judgment amends the Judgment appearing at page 70, *infra.*

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. American Pipe and Construction Co. Criminal No. 33340.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Hill, Farrer & Burrill by Frank MacDowell and Wm. McD. Miller.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Five Thousand Dollars ($5,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. American Pipe and Construction Co. Criminal No. 33341.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Hill, Farrer & Burrill by Frank MacDowell and Wm. McD. Miller.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Seven Thousand Dollars ($7,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Note: This Judgment amends the Judgment appearing at page 69, *infra*.

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. United Concrete Pipe Corp. Criminal No. 33338.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Gibson, Dunn & Crutcher by John J. Hanson.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Five Thousand Dollars. ($5,000.00)

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. United Concrete Pipe Corp. Criminal No. 33340.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Gibson, Dunn & Crutcher by John J. Hanson.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Five Thousand Dollars ($5,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L.A. Brosnan, Deputy

Note: This Judgment amends the Judgment appearing at page 68, *infra.*

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. United Concrete Pipe Corporation. Criminal No. 33341.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Gibson, Dunn & Crutcher by John F. Hanson.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted:

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Five Hundred Dollars ($500.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District o California, Central Division.

United States of America, vs. Kaiser Steel Corpora tion. Criminal No. 33339.

On this 19th day of June, 1964, came the attorne for the Government and the defendant appeared i person and by counsel, Gordon Johnson and James W Baldwin.

IT IS ADJUDGED that the defendant has bee convicted upon his plea of nolo contendere of the of fense of engaging in an unlawful combination and con spiracy in restraint of interstate trade and commerce in violation of Title 15, United States Code, Section 1 as charged in the Indictment and the Court havin asked the defendant whether he had anything to sa why judgment should not be pronounced, and no suffi cient cause to the contrary being shown or appearin to the Court,

IT IS ADJUDGED that the defendant is guilty [Con victed /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of On Thousand Dollars ($1,000.00).

IT IS ADJUDGED that the execution of the pay ment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Note: This Judgment amends the Judgment appearing at page 71, *infra*.

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. Kaiser Steel Corporation. Criminal No. 33340.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Gordon Johnson and James Baldwin.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Two Thousand Dollars ($2,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District
California, Central Division.

United States of America, vs. U. S. Industries, In
Charged as United States Industries, Inc. Criminal N
33341.

On this 19th day of June, 1964, came the attorn
for the Government and the defendant appeared
person and by counsel, Paul, Hastings, Janofsky
Walker by Oliver F. Green, Jr.

IT IS ADJUDGED that the defendant has be
convicted upon his plea of nolo contendere of t
offense of engaging in an unlawful combination a
conspiracy in restraint of interstate trade and co
merce, in violation of Title 15, United States Cod
Section 1, as charged in the Indictment and the Cou
having asked the defendant whether he had anythi
to say why judgment should not be pronounced, and
sufficient cause to the contrary being shown or a
pearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Co
victed /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fi
unto the United States of America in the amount
Four Thousand Dollars ($4,000.00).

IT IS ADJUDGED that the execution of the pa
ment of the fine herein imposed is stayed for ten day

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. U.S. Industries, Inc., Charged as United States Industries, Inc. Criminal No. 33342.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Paul, Hastings, Janofsky & Walker by Oliver F. Green, Jr.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Four Thousand Dollars ($4,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. Smith-Scott, Co., Inc., charged as Smith-Scott, Inc. Criminal No. 33341.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Gibson, Dunn & Crutcher by John F. Hanson.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of One Thousand Dollars. ($1,000.00)

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. Smith-Scott, Co., Inc., charged as Smith-Scott, Inc. Criminal No. 33342.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Gibson, Dunn & Crutcher by John F. Hanson.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of One Thousand Dollars ($1,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District
California, Central Division.

United States of America, vs. United States St
Corporation. Criminal No. 33339.

On this 19th day of June, 1964, came the attorn
for the Government and the defendant appeared
person and by counsel, Musick, Peeler & Garrett a
Jesse R. O'Malley.

IT IS ADJUDGED that the defendant has been co
victed upon his plea of nolo contendere of the offe
of engaging in an unlawful combination and conspira
in restraint of interstate trade and commerce, in v
lation of Title 15, United States Code, Section 1,
charged in the Indictment and the Court having ask
the defendant whether he had anything to say w
judgment should not be pronounced, and no su
cient cause to the contrary being shown or appeari
to the Court,

IT IS ADJUDGED that the defendant is gui
[Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fi
unto the United States of America in the amount
Two Thousand Dollars ($2,000.00)

IT IS ADJUDGED that the execution of the p
ment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. United States Steel Corporation. Criminal No. 33340.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Musick, Peeler & Garrett and Jesse R. O'Malley.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of One Thousand Dollars ($1,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. United States Steel Corporation. Criminal No. 33341.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Musick, Peeler & Garrett and Jesse R. O'Malley.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of One Thousand Dollars ($1,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. United States Steel Corporation. Criminal No. 33342.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Musick, Peeler & Garrett and Jesse R. O'Malley.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty [Convicted /s/ B] as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of One Thousand Dollars. ($1,000.00)

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America vs. United Concrete Pipe Corp. Criminal No. 33340.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Gibson, Dunn & Crutcher by John J. Hanson.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Five Thousand Dollars ($5,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s /L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. American Pipe and Construction Co. Criminal No. 33341.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Hill, Farrer & Burrill by Frank MacDowell and Wm. McD. Miller.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Seven Thousand Dollars ($7,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. American Pipe and Construction Co. Criminal No. 33338.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Hill, Farrer & Burrill by Frank D. MacDowell and William McD. Miller.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of Five Thousand Dollars ($5,000.00).

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Judgment.

United States District Court, Southern District of California, Central Division.

United States of America, vs. Kaiser Steel Corporation. Criminal No. 33339.

On this 19th day of June, 1964, came the attorney for the Government and the defendant appeared in person and by counsel, Gordon Johnson and James W. Baldwin.

IT IS ADJUDGED that the defendant has been convicted upon his plea of nolo contendere of the offense of engaging in an unlawful combination and conspiracy in restraint of interstate trade and commerce, in violation of Title 15, United States Code, Section 1, as charged in the Indictment and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant pay a fine unto the United States of America in the amount of One Thousand Dollars ($1,000.00)

IT IS ADJUDGED that the execution of the payment of the fine herein imposed is stayed for ten days.

/s/ Albert Lee Stephens, Jr.
United States District Judge

FILED: June 19, 1964
JOHN A. CHILDRESS, Clerk
by /s/ L. Brosnan
L. A. Brosnan, Deputy

Complaint.

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. American Pipe and Construction Co. and United Concrete Pipe Corp., Defendants. Civil No. 64-832-TC.

The United States of America, plaintiff herein, by its attorneys, brings this civil action against the above-named defendants in two counts. As a first claim, the United States of America, in its capacity as purchaser of concrete pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the western area of the United States, brings this suit under the False Claims Act (31 U.S.C. §§ 231-233) for double the amount of damages suffered by it due to defendants' acts, plus forfeitures (Count I). Alternatively, the United States of America in its aforesaid capacity as purchaser of concrete pipe for use by Federal governmental organizations brings this suit under Section 4A of the Clayton Act (15 U.S.C. § 15A) to recover its actual damages (Count II). The plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies filed by the plaintiff concurrently with the filing of this complaint.

COUNT I

1. As a first claim, the United States of America in its capacity as purchaser of concrete pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the western area of the United States, brings this suit under Sections 3490, 3491, 3492 and

5438 of the Revised Statutes (31 U.S.C. §§ 231-233), commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant is engaged in the business of manufacturing and of selling concrete pipe principally in the city indicated in the western area.

Name of Company	State of Incorporation	Principal Place of Business
American Pipe and Construction Co. (referred to as American)	California	Monterey Park, California
United Concrete Pipe Corp. (referred to as United)	California	Baldwin Park, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively engaged in the management, direction, or control of its affairs.

6. American Concrete Pipe Co. is engaged in the business of manufacturing and of selling concrete pipe in the western area, is a subsidiary of American and is incorporated in the State of Arizona. It and various other companies not made defendants herein, par-

ticipated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Concrete pipe" means pipe constructed of concrete either with or without metal components, to convey water or sewage, and includes both pressure and nonpressure pipe;

(b) "Metal components" refers to steel sheets, skelp, rods, wire and mesh used in the manufacture of concrete pipe;

(c) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho, and Hawaii; and

(d) "End users" means customers who purchase and install or have installed concrete pipe to transport drinking water and for sanitation, drainage, irrigation, flood control and similar purposes.

8. The construction of systems utilizing concrete pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. Prior to submitting such bids, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user. End users also purchase pipe directly from pipe manufacturers usually on the basis of sealed competitive bids.

9. The corporate defendants are the principal manufacturers of concrete pipe in the western area and during the period 1958 through 1961 their average annual sales of concrete pipe in the western area were at least $41,500,000. Because of the relatively limited number of manufacturers of concrete pipe, general contractors and end users frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench side or as near as possible to the place where it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of concrete pipe at their plants within the western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said concrete pipe moves in a continuous and uninterrupted flow from the place of manufacture to points of installation outside the State where said pipe was manufactured.

10. Most concrete pipe, as it is manufactured, is reinforced with metal components both to strengthen the pipe and, particularly with respect to concrete pressure pipe, to make it watertight. The defendant manufacturers purchase said metal components in anticipation of orders or to enable them to fill existing orders for concrete pipe. Substantial quantities of the metal components are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the metal components is necessary

to the manufacture and sale of concrete pipe by the defendants in the western area and the defendants and co-conspirators are conduits through which said metal components flow in a continuous uninterrupted stream in interstate commerce from the place where said components are produced to the place where the components are incorporated into concrete pipe and on to the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of concrete pipe in the western area necessarily and directly restrains and affects the interstate flow of concrete pipe and the metal components used in the construction of said pipe.

12. During the period covered by this complaint, the plaintiff through its various executive departments and agencies has purchased substantial quantities of concrete pipe for use in the construction of systems to convey water and sewage throughout the western area of the United States. Plaintiff purchased some amounts of the said concrete pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts, it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply concrete pipe to plaintiff. Plaintiff has also purchased some amounts of the said concrete pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the concrete pipe to be used in the said system. The bids or quotations tendered by the pipe manufacturers to the contractors were

incorporated into the sealed bids submitted by the contractors to the plaintiff. The pipe manufacturers, including defendants and co-conspirators, knew that the bids or quotations which they submitted to the contractor for the concrete pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said concrete pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff either directly to the pipe manufacturer or to the contractor who, in turn, would pay said price to the pipe manufacturer.

13. Beginning in or prior to the year 1954 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, defendants, together with the co-conspirators knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of concrete pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of concrete pipe and to allocate and divide orders for the purchase of concrete pipe among themselves.

15. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In or about 1954 the presidents of American and United, plus a vice president of each defendant, attended several meetings at American's office in South Gate. At these meetings a working agreement which had been in effect for some time between the two companies was reaffirmed. The agreement included the following terms:

(i) that of the total concrete pipe sales made by the two defendants, except for sales in the northwest, approximately 60 per cent would be taken by American and approximately 40 per cent would be taken by United;

(ii) that in the northwest (Washington and Oregon) 55 per cent of the total sales made by the two defendants would be taken by American and 45 per cent would be taken by United;

(iii) that wherever the two defendants encountered competition from other manufacturers of concrete pipe every effort would be made to bring such manufacturers into the conspiracy and allot each a percent of the market based on its historical position within its area of operation;

(iv) that meetings would be held at approximately six month intervals between the presidents of American and United and other representatives of the defendants and co-conspirators to discuss and decide in advance which company would be entitled to submit the lowest bid on each major job known to be scheduled for installation in the near future;

(v) that information would be exchanged regularly between representatives of the defend-

ants and co-conspirators to enable each corporate participant to keep a record of the amount of business secured by each such participant;

(vi) that before final bids or quotations were submitted on each job of any importance, agreement would be reached by representatives of the defendants and co-conspirators on the dollar amount to be bid by each defendant or co-conspirator;

(vii) that bids would be submitted in such a way as to create the semblance of competitive bidding and pricing.

(b) The terms of this agreement were adhered to by the defendants throughout the period of this complaint, except that in or about 1960 or 1961, the exact date being unknown to the plaintiff, the percentage allocation between American and United was changed from a ratio of 60/40 to a ratio of 58/42 in favor of American in all areas outside of the northwest.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of concrete pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they further falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact known to defendants but unknown to plaintiff, the said bids

submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary, and noncompetitive.

17. With respect to each such contract awarded for the supply of concrete pipe during the aforesaid period of the conspiracy, the defendant to which such contract was awarded presented and/or caused to be presented to plaintiff for payment or approval by it numerous claims, knowing such claims to be false, fictitious or fraudulent in that such claims were based on a contract which had been falsely or fraudulently procured by reason of the aforesaid bidding practice.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or to contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for concrete pipe than would have been the case but for the illegal conduct complained of herein, and has been financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000.00) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections

3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

COUNT II

21. As an alternative claim, the United States of America, in its aforesaid capacity as purchaser of concrete pipe for use by Federal governmental organizations, brings this suit against the defendants under Section 4A of the Act of Congress of October 15, 1914, c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. §1).

22. Plaintiff realleges as part of this claim each and all of the allegations contained in 2 and 3, and 5 through 11 of Count I hereof, with like effect as if herein fully repeated.

23. Beginning in or prior to the year 1954 and continuing thereafter until at least August 1962, defendants, together with the co-conspirators, have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in concrete pipe in the western area, in violation of Section 1 of the Sherman Act.

24. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of concrete pipe and to allocate and divide orders for the purchase of concrete pipe among themselves.

25. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of Count I hereof, the allegations of which are realleged in this paragraph, with like effect as if herein fully repeated.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for concrete pipe throughout the western area have been raised, fixed and maintained at high and artificial levels;

(b) Price competition in the sale of concrete pipe throughout the western area has been restrained, suppressed, and eliminated;

(c) Purchasers of concrete pipe throughout the western area have been deprived of the benefits of free competition in the purchase of concrete pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage including Federal governmental organizations such as the Bureau of Reclamation and the United

States Army Corps of Engineers, have been forced to pay high artificially fixed prices for concrete pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment in this District against American and United in March 1964. (*United States v. American Pipe and Construction Co. et al.*, Criminal No. 33338.) It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1954, plaintiff has purchased substantial quantities of concrete pipe from defendants for use in the western area of the United States. In purchasing said concrete pipe, plaintiff in some instances has invited formal, sealed competitive bids from prospective suppliers, including defendants, and has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids solicited by it during the period covered by this complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the

benefit of unrestricted competition in prices for concrete pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased concrete pipe under construction contracts with independent contractors who had purchased said concrete pipe from defendants at high, noncompetitive prices. By the operation of defendants' agreements and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have been the case but for the violation of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, plaintiff United States of America has been injured and financially damaged by defendants, in an amount which is presently undetermined.

WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act;

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. § 15A), or some lesser amount to the extent that it has

recovery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

Dated: June 23, 1964.

/s/ Robert F. Kennedy
ROBERT F. KENNEDY
Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

/s/ Francis C. Whelan
FRANCIS C. WHELAN
United States Attorney

/s/ Stanley E. Disney
STANLEY E. DISNEY
Attorney, Department of Justice

/s/ Barbara J. Svedberg
BARBARA J. SVEDBERG

/s/ Donald J. Fallon
DONALD J. FALLON

Attorneys, Department of Justice

Filed June 23, 1964.

[Endorsement omitted in printing]

Complaint.

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. Kaiser Steel Corporation and United States Steel Corporation, Defendants. Civil No. 64-833-PH.

The United States of America, plaintiff herein, by its attorneys, brings this civil action against the above-named defendants in two counts. As a first claim, the United States of America, in its capacity as purchaser of steel large diameter pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the Western Area of the United States, brings this suit under the False Claims Act (31 U.S.C. §§ 231-233) for double the amount of damages suffered by it due to defendants' acts, plus forfeitures (Count I). Alternatively, the United States of America in its aforesaid capacity as purchaser of steel large diameter pressure pipe for use by Federal governmental organizations brings this suit under Section 4A of the Clayton Act (15 U.S.C. § 15A) to recover its actual damages (Count II). The plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies, filed by the plaintiff concurrently with the filing of this complaint.

COUNT I

1. As a first claim, the United States of America in its capacity as purchaser of steel large diameter pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to

convey water and sewage throughout the Western Area of the United States, brings this suit under §§ 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233), commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant is engaged in the business of manufacturing and of selling steel large diameter pressure pipe principally at the place indicated in the Western Area.

Name of Company	State of Incorporation	Principal Place of Business
Kaiser Steel Corporation (Referred to herein as Kaiser)	Nevada	Oakland, California
United States Steel Corporation (Referred to herein as U.S. Steel)	New Jersey	Commerce, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively engaged in the management, direction, or control of its affairs.

6. Southwest Welding and Manufacturing Company (referred to herein as Southwest Welding) and

certain officers and employees of Southwest Welding and of the corporate defendants participated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Steel large diameter pressure pipe," referred to herein as steel LDP pipe, means heavy walled welded steel pipe which is manufactured in diameters of over 24 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Western Area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

(c) "End users" means customers who purchase and install or have installed steel LDP pipe in systems primarily for the conveyance of water or sewage under pressure.

8. Steel LDP pipe is used for the conveyance of drinking water under pressure and for irrigation and sanitation systems. The construction of systems utilizing steel LDP pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. Prior to submitting such bids, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award-winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user. End

users also purchase pipe directly from pipe manufacturers, usually on the basis of sealed competitive bids.

9. The corporate defendants are the principal manufacturers of steel LDP pipe in the Western Area, and during the period 1958 through 1961 their average annual sales of steel LPD pipe in the Western Area were at least $7,000,000. Because of the relatively limited number of manufacturers of steel LDP pipe, general contractors and end users frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe directly to the trench site or as near as possible to the place where it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of steel LDP pipe at their plants within the Western Area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said steel LDP pipe moves in a continuous and uninterrupted flow from the place of manufacture to points of installation outside the State where said pipe was manufactured.

10. Steel LDP pipe is fabricated largely from steel plate. The defendant manufacturers obtain said steel plate in anticipation of orders or to enable them to fill existing orders for steel LDP pipe. Substantial quantities of said steel plate are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the steel plate is necessary to the manufacture and sale of steel LDP pipe by the

defendants in the Western Area, and the defendants and co-conspirators are conduits through which said steel plate flows in a continuous uninterrupted stream in interstate commerce from the place where said steel plate is produced to the place where it is incorporated into steel LDP pipe and on to the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of steel LDP pipe in the Western Area necessarily and directly restrains and affects the interstate flow of steel LDP pipe and the steel plate used in the construction of said pipe.

12. During the period covered by this complaint, the plaintiff through its various executive departments and agencies has purchased substantial quantities of steel LDP pipe for use in the construction of systems to convey water and sewage through the Western Area of the United States. Plaintiff purchased some amounts of the said steel LDP pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts, it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply steel LDP pipe to plaintiff. Plaintiff has also purchased some amounts of the said steel LDP pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the steel LDP pipe to be used in the said system. The bids or quotations tendered by the pipe manufacturers to the contractors were incorporated into the sealed bids submitted by the con-

tractors to the plaintiff. The pipe manufacturers, including defendants, knew that the bids or quotations which they submitted to the contractor for the steel LDP pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said steel LDP pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff, either directly to the pipe manufacturer or to the contractor who in turn would pay said price to the pipe manufacturer.

13. Beginning sometime prior to the year 1955 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, defendants, together with the co-conspirators knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of steel LDP pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of steel LDP pipe and to allocate and divide orders for the purchase of steel LDP pipe among themselves.

15. During the period of time covered by this complaint, the defendants and the co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In 1955 several meetings were held at the Statler Hilton and Sheraton-West hotels in Los An-

geles attended by P. M. Cobb and James Greer Thompson of U.S. Steel; Ernest L. Illsley and Homer Barnes of Kaiser; and Monte Lindmoe of Southwest Welding. At these meetings an agreement was reached which included the following terms:

(i) Sales of steel LDP pipe would be divided so that U.S. Steel would obtain 38 per cent, Kaiser 35 per cent, and Southwest Welding 27 per cent of the total of such sales;

(ii) Meetings would be held periodically between representatives of the three companies in Los Angeles and San Francisco to discuss and decide in advance which company would be entitled to submit the lowest bid on each major job known to be scheduled for installation in the near future;

(iii) Information would be exchanged regularly between representatives of the three companies to enable each participant to keep a record of the amount of business secured by each such participant. Tallies were kept by Herb Thoedy in San Francisco and Norman David Lindley in Los Angeles for U.S. Steel;

(iv) Before final bids or quotations were submitted on each job of any importance, agreement would be reached by representatives of the participants on the dollar amount to be bid by each participant;

(v) Bids would be submitted in such a way as to create the semblance of competitive bidding and pricing.

(b) The terms of this agreement were adhered to by the defendants throughout the period of this

complaint, except that in 1961 Southwest Welding was dissolved and U.S. Steel and Kaiser reallocated the business between themselves;

(c) Many phone calls were made between Monte Parker Lindmoe of Southwest Welding; James Greer Thompson, Norman David Lindley, and P. M. Cobb of U.S. Steel; and Homer A. Barnes and Ernest L. Illsley of Kaiser to reach agreement on dollar amounts to be bid on future jobs.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of steel LDP pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they further falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact known to defendants but unknown to plaintiff, the said bids submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary, and non-competitive.

17. With respect to each such contract awarded for the supply of steel LDP pipe during the aforesaid period of the conspiracy, the defendant to which such contract was awarded presented and/or caused to be presented to plaintiff for payment or approval by it numerous claims, knowing such claims to be false, fictitious, or fraudulent in that such claims were based on a contract which had been falsely or fraudulently procured by reason of the aforesaid bidding practices.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for steel LDP pipe than would have been the case but for the illegal conduct complained of herein, and has been financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

COUNT II

21. As an alternative claim, the United States of America, in its aforesaid capacity as purchaser of steel LDP pipe for use by Federal governmental organizations, brings this suit against the defendants under Section 4A of the Act of Congress of October 15, 1914,

c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. Plaintiff realleges as part of this claim each and all of the allegations contained in ¶¶. 2, 3, and 5 through 11 of Count I hereof, with like effect as if herein fully repeated.

23. Beginning prior to the year 1955 and continuing thereafter until at least August 1962, defendants, together with the co-conspirators, have engaged in a combination and conspiracy in unreasonable restraint of aforesaid interstate trade and commerce in steel LDP pipe in the Western Area in violation of Section 1 of the Sherman Act.

24. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of steel LDP pipe and to allocate and divide orders for the purchase of steel LDP pipe among themselves.

25. During the period of time covered by this complaint, the defendants and co-conspirators for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of Count I hereof, the allegations of which are realleged in this paragraph with like effect as if herein fully repeated.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for steel LDP pipe throughout the Western Area have been raised, fixed and maintained at high and artificial levels;

(b) Price competition in the sale of steel LDP pipe throughout the Western Area has been restrained, suppressed, and eliminated;

(c) Purchasers of steel LDP pipe throughout the Western Area have been deprived of the benefits of free competition in the purchase of steel LDP pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage including Federal governmental organizations such as the Bureau of Reclamation and the United States Army Corps of Engineers, have been forced to pay high artificially fixed prices for steel LDP pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment in this District against Kaiser and United States Steel in March 1964. (*United States v. Kaiser Steel Corporation et al.*, Criminal No. 33339). It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1955, plaintiff has purchased substantial quantities of steel LDP pipe from defendants for use in the Western Area of the United States. In purchasing said steel LDP pipe, plaintiff in some in-

stances has invited formal, sealed competitive bids from prospective suppliers, including defendants, and has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids solicited by it during the period covered by this complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the benefit of unrestricted competition in prices for steel LDP pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased steel LDP pipe under construction contracts with independent contractors who had purchased said steel LDP pipe from defendants at high, noncompetitive prices. By the operation of defendants' agreements and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have been the case but for the violations of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, the plaintiff, United States of America, has been injured and financially damaged by defendants in an amount which is presently undetermined.

WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and

commerce and in violation of Section 1 of the Sherman Act;

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. § 15A), or some lesser amount to the extent that it has recovery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

Dated: June 23, 1964

/s/ Robert F. Kennedy
ROBERT F. KENNEDY
Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

/s/ Francis C. Whelan
FRANCIS C. WHELAN
United States Attorney

/s/ Stanley E. Disney
STANLEY E. DISNEY
Attorney, Department of Justice

/s/ Barbara J. Svedberg
BARBARA J. SVEDBERG

/s/ Donald J. Fallon
DONALD J. FALLON
Attorneys, Department of Justice

Filed June 23, 1964.

[Endorsement omitted in printing]

Complaint.

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. United Concrete Pipe Corp.; American Pipe and Construction Co.; Kaiser Steel Corporation; and United States Steel Corporation, Defendants. Civil No. 64-834-CC.

The United States of America, plaintiff herein, by its attorneys, brings this civil action against the above-named defendants in two counts. As a first claim, the United States of America, in its capacity as purchaser of alternate large diameter pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the western area of the United States, brings this suit under the False Claims Act (31 U.S.C. §§231-233) for double the amount of damages suffered by it due to defendants' acts, plus forfeitures (Count I). Alternatively, the United States of America in its aforesaid capacity as purchaser of alternate large diameter pressure pipe for use by Federal governmental organizations brings this suit under Section 4A of the Clayton Act (15 U.S.C. § 15A) to recover its actual damages (Count II). The plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies, filed by the plaintiff concurrently with the filing of this complaint.

Count I

1. As a first claim, the United States of America in its capacity as purchaser of alternate large diameter pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to

convey water and sewage throughout the western area of the United States, brings this suit under 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233), commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant is engaged in the business of manufacturing and of selling alternate large diameter pressure pipe principally in the city indicated in the western area.

Name of Company	State of Incorporation	Principal Place of Business
United Concrete Pipe Co. (Referred to herein as United)	California	Baldwin Park, California
American Pipe and Construction Co. (Referred to herein as American)	California	Monterey Park, California
Kaiser Steel Corporation (Referred to herein as Kaiser)	Nevada	Oakland, California
United States Steel Corporation (Referred to herein as U.S. Steel)	New Jersey	Commerce, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively en-

gaged in the management, direction, or control of its affairs.

6. Southwest Welding and Manufacturing Company (referred to herein as Southwest Welding), American Concrete Pipe Co. of Phoenix, Arizona, (referred to herein as American Concrete), Pipe Linings, Inc. and certain officers and employees of said corporations and of the corporate defendants participated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Steel large diameter pressure pipe," or steel LDP pipe means heavy walled welded steel pipe which is manufactured in diameters of over 24 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Concrete large diameter pressure pipe," or concrete LDP pipe means concrete pressure pipe, which ordinarily utilizes steel sheets or skelp in its manufacture, in diameters over 24 inches, sold for the conveyance of water and sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(c) "Alternate large diameter pressure pipe" or "alternate LDP pipe" means pipe which is manufactured and sold, or offered for sale in jobs where the specifications permit the use of either concrete LDP pipe or steel LDP pipe;

(d) "Metal components" refers to steel plate, sheets, skelp, rods, wires and mesh used in the production of alternate LDP pipe.

(e) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

(f) "End users" means customers who purchase and install or have installed alternate LDP pipe in systems primarily for the conveyance of water or sewage under pressure.

8. Alternate LDP pipe is used for the conveyance of drinking water under pressure and for irrigation and sanitation systems. The construction of systems utilizing alternate LDP pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. The end users draft or have drafted the specifications where this is appropriate, so that either concrete LDP pipe or steel LDP pipe can be used in the system. Prior to submitting bids to the end user, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award-winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user. End users also purchase pipe directly from pipe manufacturers usually on the basis of sealed competitive bids. The specifications for alternate LDP pipe require that the pipe be lined and/or coated with concrete. When the steel LDP pipe manufacturers plan to submit bids or quotations on an alternate LDP pipe job, they, in turn, solicit quotations or bids from the concrete LDP pipe manufacturers for the performance of this service. The cost of this service is then incorporated in the quotation or bid submitted to the general contractors or end users by the steel LDP pipe manufacturer.

9. The corporate defendants are the principal manufacturers of alternate LDP pipe in the western area and during the period 1958 through 1961 their average annual sales of alternate LDP pipe in the western area were at least $15,000,000. Because of the relatively limited number of manufacturers of alternate LDP pipe, general contractors and end users, where the specifications permit the use of alternate LDP pipe, frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench site or as near as possible to the place where it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of alternate LDP pipe at their plants within the western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said alternate LDP pipe moves in a continuous and uninterrupted flow from the place of manufacture to points of installation outside the State where said pipe was manufactured.

10. Substantial quantities of metal components are used in the manufacture of alternate LDP pipe. The defendant manufacturers often obtain said metal components in anticipation of orders or to enable them to fill existing orders for alternate LDP pipe. Substantial quantities of the said metal components are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the metal components is necessary to the manufacture and

sale of alternate LDP pipe by the defendants in the western area and the defendants and co-conspirators are conduits through which said metal components flow in a continuous, uninterrupted stream in interstate commerce from the place where produced to the place where it is incorporated into alternate LDP pipe and on the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of alternate LDP pipe in the western area necessarily and directly restrains and affects the interstate flow of alternate LDP pipe and the metal components used in the manufacture of said pipe.

12. During the period covered by this complaint, the plaintiff through its various executive departments and agencies has purchased substantial quantities of alternate LDP pipe for use in the construction of systems to convey water and sewage throughout the western area of the United States. Plaintiff purchased some amounts of the said alternate LDP pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts, it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply alternate LDP pipe to plaintiff. Plaintiff has also purchased some amounts of the said alternate LDP pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the alternate LDP pipe to be used in the said system. The bids or quotations tendered by the pipe manufacturers to the contractors were incorporated into

the sealed bids submitted by the contractors to the plaintiff. The pipe manufacturers, including defendants, knew that the bids or quotations which they submitted to the contractor for the alternate LDP pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said alternate LDP pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff, either directly to the pipe manufacturer or to the contractor who, in turn, would pay said price to the pipe manufacturer.

13. Beginning sometime prior to the year 1955 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, defendants, together with the co-conspirators, knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of alternate LDP pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate LDP pipe and to allocate and divide orders for the purchase of alternate LDP pipe among themselves.

15. During the period of time covered by this complaint, the defendants and the co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In or about 1955, meetings were held between P. M. Cobb and James Greer Thompson of U.S. Steel; Ernest L. Illsley and Homer Barnes of Kaiser; Monte Lindmoe of Southwest Welding; Lloyd R. Earl and Richard I. Young of United; and Robert V. Edwards and Elliott E. Brainard of American. At these meetings an agreement was reached or reaffirmed which included the following terms:

(i) that sales of alternate LDP pipe would be divided so that 50 per cent of such sales would be obtained by the manufacturers of concrete LDP pipe and 50 per cent would be obtained by the manufacturers of steel LDP pipe and that the amount of business involved in the lining and coating of the alternate LDP pipe by the concrete LDP pipe manufacturers would be included in the share to be obtained by the concrete LDP pipe manufacturers;

(ii) that the steel LDP pipe manufacturers would not install their own lining and coating facilities but would rely on the concrete LDP pipe manufacturers for this service;

(iii) that meetings would be held periodically between representatives of the steel LDP pipe manufacturers group and concrete LDP pipe manufacturers group in Los Angeles and San Francisco to discuss and decide in advance which group would be entitled to submit the lowest bid on each major job known to be scheduled for installation in the near future;

(iv) that information would be exchanged regularly between representatives of the concrete LDP pipe manufacturers and the steel

LDP pipe manufacturers to enable each group to keep a record of the amount of business secured by each;

(v) that bids would be submitted in such a way as to create the semblance of competitive bidding and pricing;

(b) Many phone calls were made between James Greer Thompson, negotiator for the steel LDP pipe manufacaturers and Elliott E. Brainard, negotiator for the concrete LDP pipe manufacturers to reach agreement on which group would submit the lowest bid on each job.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of alternate LDP pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they further falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact known to defendants but unknown to plaintiff, the said bids submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary, and noncompetitive.

17. With respect to each such contract awarded for the supply of alternate LDP pipe during the aforesaid period of the conspiracy, the defendant to which such contract was awarded presented and/or caused to be presented to plaintiff for payment or approval by it numerous claims, knowing such claims to be false,

fictitious, or fraudulent in that such claims were based on a contract which had been falsely or fraudulently procured by reason of the aforesaid bidding practices.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or to contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for alternate LDP pipe than would have been the case but for the illegal conduct complained of herein, and has been financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000.00) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

Count II

21. As an alternative claim, the United States of America, in its aforesaid capacity as purchaser of alternate LDP pipe for use by Federal governmental organizations, brings this suit against the defendants under

Section 4A of the Act of Congress of October 15, 1914, c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. Plaintiff realleges as part of this claim each and all of the allegations contained in 2 and 3, and 5 through 11 of Count I hereof, with like effect as if herein fully repeated.

23. Beginning prior to the year 1955 and continuing thereafter until at least August 1962, defendants, together with the co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in alternate LDP pipe in the western area, in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

24. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate LDP pipe and to allocate and divide orders for the purchase of alternate LDP pipe among themselves.

25. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of Count I hereof, the allegations of which are realleged in this paragraph, with like effect as if herein fully repeated.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for alternate LDP pipe throughout the western area have been raised, fixed, and maintained at high and artificial levels;

(b) Price competition in the sale of alternate LDP pipe throughout the western area has been restrained, suppressed, and eliminated;

(c) Purchasers of alternate LDP pipe throughout the western area have been deprived of the benefits of free competition in the purchase of alternate LDP pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage, including Federal governmental organizations such as the Bureau of Reclamation and the United States Army Corps of Engineers, have been forced to pay high artificially fixed prices for alternate LDP pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment in this District against American, United, Kaiser, and U.S. Steel in March 1964. (*United States v. United Concrete Pipe Corp.*, Criminal No. 33340) It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1955, plaintiff has purchased substantial quantities of alternate LDP pipe from defendants for use in the western area of the United States. In purchasing said alternate LDP pipe, plaintiff in some

instances has invited formal, sealed competitive bids from prospective suppliers, including defendants, and, has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids solicited by it during the period covered by this complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the benefit of unrestricted competition in prices for alternate LDP pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased alternate LDP pipe under construction contracts with independent contractors who had purchased said alternate LDP pipe from defendants at high, noncompetitive prices. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have been the case but for the violations of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, plaintiff, United States of America, has been injured and financially damaged by defendants in an amount which is presently undetermined.

WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act.

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. § 15A), or some lesser amount to the extent that it has recovery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

Dated: June 23, 1964

/s/ Robert F. Kennedy
ROBERT F. KENNEDY
Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

/s/ Francis C. Whelan
FRANCES C. WHELAN
United States Attorney

/s/ Stanley E. Disney
STANLEY E. DISNEY
Attorney, Department of Justice

/s/ Barbara J. Svedberg
BARBARA J. SVEDBERG

/s/ Donald J. Fallon
DONALD J. FALLON
Attorneys, Department of Justice

Filed June 23, 1964.
[Endorsement omitted in printing]

Complaint.

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. U.S. Industries, Inc.; Smith-Scott Co., Inc.; United States Steel Corporation; American Pipe and Construction Co.; and United Concrete Pipe Corp., Defendants. Civil No. 64-835-UB.

The United States of America, plaintiff herein, by its attorneys, brings this civil action against the above-named defendants in two counts. As a first claim, the United States of America, in its capacity as purchaser of alternate small diameter pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the western area of the United States, brings this suit under the False Claims Act (31 U.S.C. §§ 231-233) for double the amount of damages suffered by it due to defendants' acts, plus forfeitures (Count I). Alternatively, the United States of America in its aforesaid capacity as purchaser of alternate small diameter pressure pipe for use by said Federal governmental organizations brings this suit under Section 4A of the Clayton Act (15 U.S.C. § 15A) to recover its actual damages (Count II). The plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies, filed by the plaintiff concurrently with the filing of this complaint.

COUNT I

1. As a first claim, the United States of America in its capacity as purchaser of alternate small diameter

pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the western area of the United States, brings this suit under Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233), commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant was engaged in the business of manufacturing and of selling alternate small diameter pressure pipe principally in the city indicated in the western area during the time of the conspiracy alleged herein.

Name of Company	State of Incorporation	Place of Business
U.S. Industries Inc. (referred to herein as USI)	Delaware	Azusa, California
Smith-Scott Co. Inc. (referred to herein as Smith-Scott)	California	Riverside, California
United States Steel Corporation (referred to herein as U.S. Steel)	New Jersey	Linden, Utah
American Pipe and Construction Co. (referred to as American)	California	Monterey Park, California
United Concrete Pipe Corp. (referred to as United)	California	Baldwin Park, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the

United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively engaged in the management, direction, or control of its affairs.

6. American Concrete Pipe Co., engaged in the business of manufacturing and of selling concrete pipe in the western area, is a subsidiary of American and is incorporated in the State of Arizona. It and various other companies not made defendants herein, participated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Steel small diameter pressure pipe" or "steel SDP pipe" means thin walled welded steel pipe, manufactured from steel plate in diameters of 12 inches to 48 inches and sold for the conveyance of water and sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Concrete small diameter pressure pipe" or "concrete SDP pipe" means concrete cylinder pipe, which utilizes steel sheets or skelp in its manufacture, in diameters from 12 inches to 48 inches and sold for the conveyance of water or sewage under internal pressure exceeding 115 feet of head or 50 pounds per square inch.

(c) "Alternate small diameter pressure pipe" or "alternate SDP pipe" means pipe which is manufactured and sold, or offered for sale in jobs

where the specifications permit the use of either concrete SDP pipe or steel SDP pipe;

(d) "Metal components" refers to steel plate, sheets, skelp, rods, wire and mesh used in the manufacture of alternate SDP pipe;

(e) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho, and Hawaii; and

(f) "End users" means customers who purchase and install or have installed alternate SDP pipe.

8. The construction of systems utilizing alternate SDP pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. The end users draft or have drafted the specifications where this is appropriate, so that either concrete SDP pipe or steel SDP pipe can be used in the system. Prior to submitting bids to the end user, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user. End users also purchase pipe directly from pipe manufacturers usually on the basis of sealed competitive bids.

9. The corporate defendants are the principal manufacturers of alternate SDP pipe in the western area and during the period 1958 through 1961 their average annual sales of alternate SDP pipe in the western area were at least $18,000,000. Because of the relatively limited number of manufacturers of alternate SDP pipe,

general contractors and end users where the specifications permit the use of alternate SDP pipe, frequently solicit bids both from manufacturers of concrete SDP pipe and from manufacturers of steel SDP pipe, and frequently they solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench site or as near as possible to the place where it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of alternate SDP pipe at their plants within the western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said alternate SDP pipe moved in a continuous and uninterrupted flow from the place of manufacture to points of installation outside the State where said pipe was manufactured.

10. Substantial quantities of metal components are used in the manufacture of alternate SDP pipe. The defendant manufacturers purchase said metal components in anticipation of orders or to enable them to fill existing orders for alternate SDP pipe. Substantial quantities of the metal components are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the metal components is necessary to the manufacture and sale of alternate SDP pipe by the defendants in the western area and the defendants and co-conspirators are conduits through which said metal components flow in a

continuous uninterrupted stream in interstate commerce from the place where said components are produced to the place where the components are incorporated into alternate SDP pipe and on to the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of alternate SDP pipe in the western area necessarily and directly restrains and affects the interstate flow of concrete pipe and the metal components used in the construction of said pipe.

12. During the period covered by this complaint, the plaintiff through its various executive departments and agencies has purchased substantial quantities of alternate SDP pipe for use in the construction of systems to convey water and sewage throughout the western area of the United States. Plaintiff purchased some amounts of the said alternate SDP pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts, it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply alternate SDP pipe to plaintiff. Plaintiff has also purchased some amounts of the said alternate SDP pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the alternate SDP pipe to be used in the said system. The bids or quotations tendered by the pipe manufacturers to the contractors were incorporated into the sealed bids submitted by the contractors to the plaintiff. The pipe manufacturers, including defendants and

co-conspirators, knew that the bids or quotations which they submitted to the contractor for the alternate SDP pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said alternate SDP pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff either directly to the pipe manufacturer or to the contractor who, in turn, would pay said price to the pipe manufacturer.

13. Beginning in or prior to the year 1955 and continuing thereafter until at least January 1962, the exact dates being to the plaintiff unknown, defendants, together with the co-conspirator knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of alternate SDP pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate SDP pipe and to allocate and divide orders for the purchase of alternate SDP pipe among themselves.

15. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In or before 1955 representatives of the alternate SDP pipe manufacturers reached an agreement which included the following terms:

(i) that sales of alternate SDP pipe would be divided so that a certain per cent of such sales would be obtained by the manufacturers of steel SDP pipe;

(ii) that information would be exchanged regularly between representatives of the concrete SDP pipe manufacturers and representatives of the steel SDP pipe manufacturers to enable each group to keep a record of the amount of business secured by each;

(iii) that bids would be submitted in such a way as to create the semblance of competitive bidding and pricing.

(b) The terms of this agreement were adhered to by the defendants and co-conspirators throughout the period of this complaint except that the percentage ratios were changed from time to time by agreement between the defendants and co-conspirators.

(c) At various times throughout the period of the conspiracy, Charles Eugene Lamar, John Harvey Barbazette and D. N. Chamberlain acted as "negotiators" for the steel SDP pipe manufacturers and Richard J. McConnell, Peter Van Kuran, Lawrence Robert Tollenaere and Corliss Dean acted as "negotiators" for the concrete SDP pipe manufacturers. These individuals passed along information to other members of their groups as to which group was "in line" for each job as it arose;

(d) Tallies were maintained by representatives of each corporate defendant for the purpose of keeping a record of whether a steel SDP pipe manufacturer or a concrete SDP pipe manufacturer obtained each job.

(e) Jobs for end users were allocated to the steel SDP pipe group or the concrete SDP pipe group of manufacturers at meetings or by telephone conversations between representatives of defendants and co-conspirators.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of alternate SDP pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact, known to defendants but unknown to plaintiff, the said bids submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary and noncompetitive.

17. With respect to each such contract awarded for the supply of alternate SDP pipe during the aforesaid period of the conspiracy, the defendant to which such contract was awarded presented and/or caused to be presented to plaintiff for payment or approval by it numerous claims, knowing such claims to be false, fictitious or fraudulent in that such claims were based on a contract which had been falsely or fraudulently procured by reason of the aforesaid bidding practices.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or to contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for alternate SDP pipe than would have been the case but for the illegal conduct complained of herein, and has been financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000.00) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

COUNT II

21. As an alternative claim, the United States of America, in its aforesaid capacity as purchaser of alternate SDP pipe for use by Federal governmental organizations, brings this suit against the defendants under Section 4A of the Act of Congress of October 15, 1914, c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. Plaintiff realleges as part of this claim each and all of the allegations contained in 2 and 3, and 5 through 11 of Count I hereof, with like effect as if herein fully repeated.

23. Beginning in or prior to the year 1955 and continuing thereafter until at least January 1962, defendants, together with the co-conspirators, have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in alternate SDP pipe in the western area, in violation of Section 1 of the Sherman Act.

24. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate SDP pipe and to allocate and divide orders for the purchase of alternate SDP pipe among themselves.

25. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of Count I hereof, the allegations of which are realleged in this paragraph, with like effect as if herein fully repeated.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for alternate SDP pipe throughout the western area have been raised, fixed and maintained at high and artificial levels;

(b) Price competition in the sale of alternate SDP pipe throughout the western area has been restrained, suppressed, and eliminated;

(c) Purchasers of alternate SDP pipe throughout the western area have been deprived of the benefits of free competition in the purchase of alternate SDP pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage including Federal governmental organizations such as the Bureau of Reclamation and the United States Army Corps of Engineers, have been forced to pay high artificially fixed prices for alternate SDP pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment in this District against USI, Smith-Scott, U. S. Steel, American and United in March 1964. (*United States v. United States Industries, Inc.*, Criminal No. 33341.) It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1954, plaintiff has purchased substantial quantities of alternate SDP pipe from defendants for use in the western area of the United States. In purchasing said alternate SDP pipe, plaintiff in some instances has invited formal, sealed competitive bids from prospective suppliers, and has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids

solicited by it during the period covered by this complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the benefit of unrestricted competition in prices for alternate SDP pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased alternate SDP pipe under construction contracts with independent contractors who had purchased said alternate SDP pipe from defendants at high, noncompetitive prices. By the operation of defendants' agreements and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have been the case but for the violations of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, plaintiff United States of America has been injured and financially damaged by defendants, in an amount which is presently undetermined.

WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act;

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. § 15A), or some lesser amount to the extent that it has recov-

ery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

Dated: June 23, 1964

/s/ Robert F. Kennedy
ROBERT F. KENNEDY
Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

/s/ Francis C. Whelan
FRANCIS C. WHELAN
United States Attorney

/s/ Stanley E. Disney
STANLEY E. DISNEY
Attorney, Department of Justice

/s/ Barbara J. Svedberg
BARBARA J. SVEDBERG

/s/ Donald J. Fallon
DONOLD D. FALLON
Attorneys, Department of Justice

Filed June 23, 1964.

[Endorsement omitted in printing]

Complaint.

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. United States Steel Corporation; Smith-Scott Co., Inc.; U.S. Industries, Inc., Defendants. Civil No. 64-836-LAC.

The United States of America, plaintiff herein, by its attorneys, brings this civil action against the above-named defendants in two counts. As a first claim, the United States of America, in its capacity as purchaser of steel small diameter pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the western area of the United States, brings this suit under the False Claims Act (31 U.S.C. §§ 231-233) for double the amount of damages suffered by it due to defendants' acts, plus forfeitures (Count I). Alternatively, the United States of America in its aforesaid capacity as purchaser of small diameter pressure pipe for use by Federal governmental organizations brings this suit under Section 4A of the Clayton Act (15 U.S.C. §15A) to recover its actual damages (Count II). The plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies, filed by the plaintiff concurrently with the filing of this complaint.

Count I

1. As a first claim, the United States of America, in its capacity as purchaser of steel small diameter pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the western

area of the United States, brings this suit under 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233), commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant is engaged in the business of manufacturing and of selling steel small diameter pressure pipe principally in the city indicated in the western area.

Name of Company	State of Incorporation	Place of Business
United States Steel Corporation (referred to herein as U.S. Steel)	New Jersey	Linden, Utah
Smith-Scott Co., Inc. (referred to herein as Smith-Scott)	California	Riverside, California
U.S. Industries, Inc. (referred to herein as USI)	Delaware	Azusa, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively engaged in the management, direction, or control of its affairs.

6. Certain officers and employees of the corporate defendants participated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Steel small diameter pressure pipe," (referred to herein as steel SDP pipe), means thin walled welded steel pipe which is manufactured in diameters of 4 inches to 48 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Western Area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

(c) "End users" means customers who purchase and install or have installed steel SDP pipe in systems primarily for the conveyance of water or sewage under pressure.

8. Steel SDP pipe is used for the conveyance of drinking water under pressure and for irrigation and sanitation systems. The construction of systems utilizing steel SDP pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. Prior to submitting such bids, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award-winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user. End

users also purchase pipe directly from pipe manufacturers usually on the basis of sealed competitive bids.

9. The corporate defendants are the principal manufacturers of steel SDP pipe in the western area and during the period 1958 through 1961 their average annual sales of concrete pipe in the western area were at least $13,500,000. Because of the relatively limited number of manufacturers of steel SDP pipe, general contractors and end users frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench site or as near as possible to the place where it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of steel SDP pipe at their plants within the western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said steel SDP pipe moves in a continuous and uninterrupted flow from the place of manufacture to points of installation outside the State where said pipe was manufactured.

10. Steel SDP pipe is fabricated largely from steel plate. The defendant manufacturers obtain said steel plate in anticipation of orders or to enable them to fill existing orders for steel SDP pipe. Substantial quantities of the said steel plate are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the steel plate is necessary to the manufacture and sale of steel SDP pipe by the defendants in the western area and the defendants and co-

conspirators are conduits through which said steel plate flows in a continuous uninterrupted stream in interstate commerce from the place where said steel plate is produced to the place where it is incorporated into steel SDP pipe and on to the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of steel SDP pipe in the western area necessarily and directly restrains and affects the interstate flow of steel SDP pipe and the steel plate used in the construction of said pipe.

12. During the period covered by this complaint, the plaintiff through its various executive departments and agencies has purchased substantial quantities of steel SDP pipe for use in the construction of systems to convey water and sewage throughout the western area of the United States. Plaintiff purchases some amounts of the said steel SDP pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts, it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply steel SDP pipe to plaintiff. Plaintiff has also purchased some amounts of the said steel SDP pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the steel SDP pipe to be used in the said system. The bids or quotations tendered by the pipe manufacturers to the contractors were incorporated into the sealed bids submitted by the contractors to the plaintiff. The pipe manufacturers, including defendants, knew that the bids or quota-

tions which they submitted to the contractor for the steel SDP pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said steel SDP pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff either directly to the pipe manufacturer or to the contractor who, in turn, would pay said price to the pipe manufacturer.

13. Beginning at least as early as May 1958, and continuing thereafter until at least January 1962, the exact dates being to the plaintiff unknown, defendants, together with the co-conspirator, knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of steel SDP pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of steel SDP pipe and to allocate and divide orders for the purchase of steel SDP pipe among themselves.

15. During the period of time covered by this complaint, the defendants and the co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In or about 1958 several meetings were held in P. M. Cobb's suite at the Sheraton-West Hotel in Los Angeles attended by P. M. Cobb and J. G. Thompson of U. S. Steel; Paul Allen Wing

and William Scott of Smith-Scott; and Don Chamberlain and Charles Eugene Lamar of U.S.I. At these meetings an agreement was reached which included the following terms:

(i) Each company would be entitled to only a certain percentage of the available business in steel SDP pipe in different geographical areas;

(ii) Limitations were placed on the sizes and types of steel SDP pipe each defendant would be allowed to manufacture in the future;

(iii) Meetings would be held between representatives of the three defendants to discuss and decide in advance which defendant would be entitled to submit the lowest bid on each major job known to be scheduled for installation in the near future;

(iv) Information would be exchanged regularly between representatives of the three companies to enable each participant to keep a record of the amount of business secured by each participant;

(v) Before final bids or quotations were submitted on each job of any importance, agreement would be reached by representatives of the participants on the dollar amount to be bid by each participant based on minimum discounts from standardized price lists;

(vi) Bids would be submitted in such a way as to create the semblance of competitive bidding and pricing;

(b) The terms of this agreement were adhered to by the defendants throughout the period of this complaint except that the percentage ratios were changed from time to time by agreement among the defendants;

(c) Subsequent meetings were held at various locations including the Sheraton-West Hotel in Los Angeles and the Uplander Hotel in Upland, California, and numerous phone calls were made between representatives of defendants at which future jobs were discussed by James Greer Thompson and Norman David Lindley of U.S. Steel; Charles Eugene Lamar, D. N. Chamberlain, John Harvey Barbazette, and John Allan Ellis of USI; and Frank Cook and Paul Allen Wing of Smith-Scott.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of steel SDP pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they further falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact known to defendants but unknown to plaintiff, the said bids submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary, and noncompetitive.

17. With respect to each such contract awarded for the supply of steel SDP pipe during the aforesaid period of the conspiracy, the defendant to which such contract was awarded presented and/or caused to be presented to plaintiff for payment or approval by its numerous claims, knowing such claims to be false, fictitious or fraudulent in that such claims were based on a contract which had been falsely or fraudulently procured by reason of the aforesaid bidding practices.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for steel SDP pipe than would have been the case but for the illegal conduct complained of herein, and has been financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000.00) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

Count II

21. As an alternative claim, the United States of America, in its aforesaid capacity as purchaser of steel SDP pipe for use by Federal governmental organizations, brings this suit against the defendants under Section 4A of the Act of Congress of October 15, 1914, c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other pur-

poses," commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. Plaintiff realleges as part of this claim each and all of the allegations contained in 2 and 3, and 5 through 11 of Count I hereof, with like effect as if herein fully repeated.

23. Beginning at least as early as May 1958, and continuing thereafter until at least January 1962, defendants, together with the co-conspirators, have engaged in a combination and conspiracy in unreasonable restraint of interstate commerce in steel SDP pipe in the western area, in violation of Section 1 of the Sherman Act.

24. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of steel SDP pipe and to allocate and divide orders for the purchase of steel SDP pipe among themselves.

25. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of Count I hereof, the allegations of which are realleged in this paragraph, with like effect as if herein fully repeated.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for steel SDP pipe throughout the western area have been raised, fixed and maintained at high and artificial levels;

(b) Price competition in the sale of steel SDP pipe throughout the western area has been restrained, suppressed, and eliminated;

(c) Purchasers of steel SDP pipe throughout the western area have been deprived of the benefits of free competition in the purchase of steel SDP pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage including Federal governmental organizations such as the Bureau of Reclamation and the United States Army Corps of Engineers, have been forced to pay high artificially fixed prices for steel SDP pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment in this District against U.S. Steel, Smith-Scott, and USI in March 1964. (*United States v. United States Steel Corporation,* Criminal No. 33342). It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1955, plaintiff has purchased substantial quantities of steel SDP pipe from defendants for use in the western area of the United States. In purchasing said steel SDP pipe, plaintiff in some instances has invited formal, sealed competitive bids from prospective suppliers, including defendants, and has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids solicited by it during the period covered by this complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the benefit of unrestricted competition in prices for steel SDP pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased steel SDP pipe under construction contracts with independent contractors who had purchased said steel SDP pipe from defendants at high, noncompetitive prices. By the operation of defendants' agreements and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have been the case but for the violations of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, the plaintiff, United States of America, has been injured and financially damaged by defendants, in an amount which is presently undetermined.

WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act.

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of

the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. § 15A), or some lesser amount to the extent that it has recovery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

Dated: June 23, 1964.

/s/ Robert F. Kennedy
ROBERT F. KENNEDY
Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s /Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

/s/ Francis C. Whelan
FRANCIS C. WHELAN
United States Attorney

/s/ Stanley E. Disney
STANLEY E. DISNEY
Attorney, Department of Justice

/s/ Barbara J. Svedberg
BARBARA J. SVEDBERG

/s/ Donald J. Fallon
DONALD J. FALLON
Attorneys, Department of Justice

Filed June 23, 1964.

[Endorsement omitted in printing]

First Amended Complaint.

(Injunction and Money Damages).

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. American Pipe and Construction Co. and United Concrete Pipe Corp. Defendants. Civil No. 64-832-HW.

The United States of America, plaintiff herein, by its attorneys, brings this action against the defendants named herein in three counts. As a first claim the United States of America in its capacity as purchaser of concrete pipe for use by Federal agencies, brings this suit under the False Claims Act (31 U.S.C. §§ 231-233) for double the amount of damages sustained, plus forfeitures (Count One), and as a second claim, alternatively, under Section 4A of the Clayton Act (15 U.S.C. § 15A) to recover its actual damages (Count Two). The plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies, filed by the plaintiff concurrently with the filing of this complaint.

As a third claim, the United States of America brings this suit under Section 4 of the Sherman Act (15 U.S.C. §4), in order to prevent and restrain continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1) (Count Three).

COUNT I

1. As a first claim, the United States of America in its capacity as purchaser of concrete pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage

throughout the western area of the United States, bring this suit under Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233), commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant is engaged in the business of manufacturing and of selling concrete pipe principally in the city indicated in the western area.

Name of Company	State of Incorporation	Principal Place of Business
American Pipe and Construction Co. (referred to as American)	California	Monterey Park, California
United Concrete Pipe Corp. (referred to as United)	California	Baldwin Park, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively engaged in the management, direction, or control of its affairs.

6. American Concrete Pipe Co. is engaged in the business of manufacturing and of selling concrete pipe in the western area, is a subsidiary of American and is

incorporated in the State of Arizona. It and various other companies not made defendants herein, participated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Concrete pipe" means pipe constructed of concrete either with or without metal components, to convey water or sewage, and includes both pressure and nonpressure pipe;

(b) "Metal components" refers to steel sheets, skelp, rods, wire and mesh used in the manufacture of concrete pipe;

(c) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho, and Hawaii; and

(d) "End users" means customers who purchase and install or have installed concrete pipe to transport drinking water and for sanitation, drainage, irrigation, flood control and similar purposes.

8. The construction of systems utilizing concrete pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. Prior to submitting such bids, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user. End users also purchase pipe directly from pipe manufacturers usually on the basis of sealed competitive bids.

9. The corporate defendants are the principal manufacturers of concrete pipe in the western area and during the period 1958 through 1961 their average annual sales of concrete pipe in the western area were at least $41,500,000. Because of the relatively limited number of manufacturers of concrete pipe, general contractors and end users frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe lne and deliver or have delivered said pipe direct to the trench site or as near as possible to the place where it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of concrete pipe at their plants within the western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said concrete pipe moves in a continuous and uninterrupted flow from the place of manufacture to points of installation outside the State where said pipe was manufactured.

10. Most concrete pipe, as it is manufactured, is reinforced with metal components both to strengthen the pipe and, particularly with respect to concrete pressure pipe, to make it watertight. The defendant manufacturers purchase said metal compents in anticipation of orders or to enable them to fill existing orders for concrete pipe. Substantial quantities of the metal components are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the metal components is necessary to the manufacture and sale of concrete pipe by the defendants in the west-

ern area and the defendants and co-conspirators are conduits through which said metal components flow in a continuous uninterrupted stream in interstate commerce from the place where said components are produced to the place where the components are incorporated into concrete pipe and on to the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of concrete pipe in the western area necessarily and directly restrains and affects the interstate flow of concrete pipe and the metal components used in the construction of said pipe.

12. During the period covered by this complaint, the plaintiff through its various executive departments and agencies has purchased substantial quantities of concrete pipe for use in the construction of systems to convey water and sewage throughout the western area of the United States. Plaintiff purchased some amounts of the said concrete pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts, it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply concrete pipe to plaintiff. Plaintiff has also purchased some amounts of the said concrete pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the concrete pipe to be used in the said system. The bids or quotations tendered by the pipe manufacturers to the contractors were incorporated into the sealed bids submitted by the contractors to the

plaintiff. The pipe manufacturers, including defendants and co-conspirators, knew that the bids or quotations which they submitted to the contractor for the concrete pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said concrete pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff either directly to the pipe manufacturer or to the contractor who, in turn, would pay said price to the pipe manufacturer.

13. Beginning in or prior to the year 1954 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, the defendants and the co-conspirators knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of concrete pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of concrete pipe and to allocate and divide orders for the purchase of concrete pipe among themselves.

15. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In or about 1954 the presidents of American and United, plus a vice president of each de-

fendant, attended several meetings at American's office in South Gate. At these meetings a working agreement which had been in effect for some time between the two companies was reaffirmed. The agreement included the following terms:

(i) that of the total concrete pipe sales made by the two defendants, except for sales in the northwest, approximately 60 per cent would be taken by American and approximately 40 per cent would be taken by United;

(ii) that in the northwest (Washington and Oregon) 55 per cent of the total sales made by the two defendants would be taken by American and 45 per cent would be taken by United;

(iii) that wherever the two defendants encountered competition from other manufacturers of concrete pipe every effort would be made to bring such manufacturers into the conspiracy and allot each a percent of the market based on its historical position within its area of operation;

(iv) that meetings would be held at approximately six month intervals between the presidents of American and United and other representatives of the defendants and co-conspirators to discuss and decide in advance which company would be entitled to submit the lowest bid on each major job known to be scheduled for installation in the near future;

(v) that information would be exchanged regularly between representatives of the defendants and co-conspirators to enable each corporate participant to keep a record of the

amount of business secured by each such participant;

(vi) that before final bids or quotations were submitted on each job of any importance, agreement would be reached by representatives of the defendants and co-conspirators on the dollar amount to be bid by each defendant or co-conspirator;

(vii) that bids would be submitted in such a way as to create the semblance of competitive bidding and pricing.

(b) The terms of this agreement were adhered to by the defendants throughout the period of this complaint, except that in or about 1960 or 1961, the exact date being unknown to the plaintiff, the percentage allocation between American and United was changed from a ratio of 60/40 to a ratio of 58/42 in favor of American in all areas outside of the northwest.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of concrete pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they further falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact known to defendants but unknown to plaintiff, the said bids submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary, and noncompetitive.

17. With respect to each such contract awarded for the supply of concrete pipe during the aforesaid period of the conspiracy, the defendant to which such contract was awarded, presented and/or caused to be presented to plaintiff for payment or approval by it numerous claims, knowing such claims to be false, fictitious or fraudulent in that such claims were based on a contract which had been falsely or fraudulently procured by reason of the aforesaid bidding practices.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or to contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for concrete pipe than would have been the case but for the illegal conduct complained of herein, and has been, financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000.00) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

COUNT II

21. As an alternative to the claim, alleged in Count One, the United States of America, in its aforesaid capacity as purchaser of concrete pipe for use by Federal governmental organizations, brings this suit against the defendants under Section 4A of the Act of Congress of October 15, 1914, c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. The allegations contained in paragraphs 2, 3 and 5 through 11 of this complaint are here realleged with the same force and effect as though set forth in full.

23. Beginning in or prior to the year 1954 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in concrete pipe in the western area, in violation of Section 1 of the Sherman Act.

24. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of concrete pipe and to allocate and divide orders for the purchase of concrete pipe among themselves.

25. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of the complaint which are here realleged with the same force and effect as though set forth in full.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for concrete pipe throughout the western area have been raised, fixed and maintained at high and artificial levels;

(b) Price competition in the sale of concrete pipe throughout the western area has been restrained, suppressed, and eliminated;

(c) Purchasers of concrete pipe throughout the western area have been deprived of the benefits of free competition in the purchase of concrete pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage including Federal governmental organizations such as the Bureau of Reclamation and the United States Army Corps of Engineers, have been forced to pay high artificially fixed prices for concrete pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment

in this District against American and United in March 1964. (*United States v. American Pipe and Construction Co., et al.*, Criminal No. 33338.) It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1954, plaintiff has purchased substantial quantities of concrete pipe from defendants for use in the western area of the United States. In purchasing said concrete pipe, plaintiff in some instances has invited formal, sealed competitive bids from prospective suppliers, including defendants, and has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids solicited by it during the period covered by this complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the benefit of unrestricted competition in prices for concrete pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased concrete pipe under construction contracts with independent contractors who had purchased said concrete pipe from defendants at high, non-competitive prices. By the operation of defendants' agreements and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have

been the case but for the violation of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, plaintiff United States of America has been injured and financially damaged by defendants, in an amount which is presently undetermined.

32. WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act:

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. § 15A), or some lesser amount to the extent that it has recovery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

COUNT III

33. As a third claim, the United States of America brings this suit under Section 4 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209 (15 U.S.C. § 4), as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", commonly known as the Sherman Act, in order to prevent and restrain continuing violations by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act. (15 U.S.C. § 1).

34. The allegations contained in paragraphs 2, 3 and 5 through 11 of the complaint are here realleged with the same force and effect as though set forth in full.

35. Beginning in or prior to the year 1954 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in concrete pipe in the western area, in violation of Section 1 of the Sherman Act.

36. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of concrete pipe and to allocate and divide orders for the purchase of concrete pipe among themselves.

37. The aforesaid unlawful combination and conspiracy was terminated only after plaintiff began its investigation of the conspiracy herein alleged, and will be resumed unless the relief herein prayed for is granted.

38. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of the complaint which are here realleged with the same force and effect as though set forth in full.

39. The allegations contained in paragraph 26 of the complaint are here realleged with the same force and effect as though set forth in full.

40. WHEREFORE, the plaintiff prays:

(a) That the Court adjudge and decree that the defendants, and each of them, have engaged in an unlawful combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

(b) That each of the defendants, its successors, assignees, subsidiaries and transferees, and the respective officers, directors, agents, and employees thereof, and all other persons acting or claiming to act on behalf thereof, be perpetually enjoined and restrained from, in any manner, directly or indirectly:

(i) Continuing, maintaining, or revewing the aforesaid combination and conspiracy and from engaging in any other combination, conspiracy, agreement, understanding, or concert of action having a similar purpose or effect and from adopting or following any practice, plan, program, or device having a similar purpose or effect.

(ii) Entering into any agreement, arrangement, concerted activity, or understanding with any other manufacturer, distributor or seller of pipe for the conveyance of water or sewage or with any company providing the services of lining or coating such pipe or with any association of said manufacturers, distributors or sellers, in relation to said product, products or services, to:

(1) Fix or adopt prices, terms, or conditions of sale;

(2) Maintain or stabilize prices;

(3) Submit noncompetitive, collusive, complimentary, or rigged bids or quotations to any customer;

(4) Allocate or divide orders, territories or customers;

(5) Exchange information concerning bids, prices, terms or conditions of sale;

(6) Exclude or eliminate others from competing;

(iii) With respect to pipe for the conveyance of water or sewage or for the service of lining and/or coating such pipe.

(1) Coercing or inducing others to restrict their production to certain sizes or types of the aforesaid pipe;

(2) Coercing or inducing others to restrict their sales to any territory;

(3) Quoting or bidding any job only on an "all or nothing" basis;

(4) Coercing or inducing contractors to enter agreements to deal with one supplier only before the opening of bids;

(5) Communicating to or exchanging with any manufacturer, distributor or seller of pipe for the conveyance of water or sewage or with any company providing the services of lining or coating such pipe any information concerning bids, prices, terms or conditions of sale.

(c) That the Court order each defendant for a period of five (5) years to certify in writing,

through one of its officers, at the time of every succeeding change in published prices, "estimating prices," terms, or conditions of sale of pipe, for the conveyance of water or sewage, that said change was independently arrived at by said defendant and was not the result of any agreement or understanding with any competitor; and further that each defendant retain in its files the aforesaid certifications which shall be made available to plaintiff for inspection upon reasonable written demand.

(d) That the Court order that each defendant maintain, for a period of five (5) years from the date of entry of final judgment herein, a record of all meetings attended by any of its officers, directors, or employees having managerial or supervisory authority in connection with the sale or pricing of pipe, for the conveyance of water or sewage, and similar representatives of any of its competitors; said records shall include the dates and places of said meetings, the names of all persons in attendance, and a listing of the topics discussed thereat; said records shall be made available to plaintiff for inspection upon reasonable written demand.

(e) That the Court order each defendant to annex to every sealed bid or quotation on pipe for the conveyance of water or sewage a writtten certification by an officer of said defendant, or by the official of said defendant having authority to determine the bid or quotation involved, that said bid or quotation was not the result of any agreement, understanding, or communication between the defendant and any of its competitors.

(f) That plaintiff have such other, further, and different relief as the Court may deem just and proper in the premises.

(g) That plaintiff recover the costs of this suit.

Dated: October 28, 1964

/s/ Nicholas deB. Katzenbach
NICHOLAS deB. KATZENBACH
Acting Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
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/s/ Harry G. Sklarsky
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Filed: October 28, 1964.

First Amended Complaint.

(Injunction and Money Damages).

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. Kaiser Steel Corporation and United States Steel Corporation, Defendants. Civil No. 64-833-HW.

The United States of America, plaintiff herein, by its attorneys, brings this action against the defendants named herein in three counts. As a first claim the United States of America in its capacity as purchaser of steel large diameter pressure pipe for use by Federal agencies, brings this suit under the False Claims Act (31 U.S.C. §§ 231-233) for double the amount of damages sustained, plus forfeitures (Count One), and as a second claim, alternatively, under Section 4A of the Clayton Act (15 U.S.C. §15A) to recover its actual damages (Count Two). The plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies, filed by the plaintiff concurrently with the filing of this complaint.

As a third claim, the United States of America brings this suit under Section 4 of the Sherman Act (15 U.S.C. §4), in order to prevent and restrain continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1) (Count Three).

COUNT I

1. As a first claim, the United States of America in its capacity as purchaser of steel large diameter pressure pipe for use by those Federal governmental organizations engaged in the construction of systems

to convey water and sewage throughout the Western Area of the United States, brings this suit under §§ 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233), commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant is engaged in the business of manufacturing and of selling steel large diameter pressure pipe principally at the place indicated in the western area.

Name of Company	State of Incorporation	Principal Place of Business
Kaiser Steel Corporation (referred to herein as Kaiser)	Nevada	Oakland, California
United States Steel Corporation (referred to herein as U.S. Steel)	New Jersey	Commerce, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively engaged in the management, direction, or control of its affairs.

6. Southwest Welding and Manufacturing Company (referred to herein as Southwest Welding) and certain officers and employees of Southwest Welding and of

the corporate defendants participated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Steel large diameter pressure pipe," referred to herein as steel LDP pipe, means heavy walled welded steel pipe which is manufactured in diameters of over 24 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

(c) "End users" means customers who purchase and install or have installed steal LDP pipe in systems primarily for the conveyance of water or sewage under pressure.

8. Steel LDP pipe is used for the conveyance of drinking water under pressure and for irrigation and sanitation systems. The construction of systems utilizing steel LDP pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. Prior to submitting such bids, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award-winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user. End users also purchase pipe directly from pipe manu-

facturers, usually on the basis of sealed competitive bids.

9. The corporate defendants are the principal manufacturers of steel LDP pipe in the western area, and during the period 1958 through 1961 their average annual sales of steel LDP pipe in the western area were at least $7,000,000. Because of the relatively limited number of manufacturers of steel LDP pipe, general contractors and end users frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe directly to the trench site or as near as possible to the place were it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of steel LDP pipe at their plants within the Western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said steel LDP pipe moves in a continuous and uninterrupted flow from the place of manufacture to points of installation outside the State where said pipe was manufactured.

10. Steel LDP pipe is fabricated largely from steel plate. The defendant manufacturers obtain said steel plate in anticipation of orders or to enable them to fill existing orders for steel LDP pipe. Substantial quantities of said steel plate are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the steel plate is necessary to the manufacture and sale of steel LDP pipe by the defendants

in the western area, and the defendants and co-conspirators are conduits through which said steel plate flows in a continuous uninterrupted stream in interstate commerce from the place where said steel plate is produced to the place where it is incorporated into steel LDP pipe and on to the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of steel LDP pipe in the western area necessarily and directly restrains and affects the interstate flow of steel LDP pipe and the steel plate used in the construction of said pipe.

12. During the period covered by this complaint, the plaintiff through its various executive departments and agencies has purchased substantial quantities of steel LDP pipe for use in the construction of systems to convey water and sewage throughout the western area of the United States, Plaintiff purchased some amounts of the said steel LDP pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts, it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply steel LDP pipe to plaintiff. Plaintiff has also purchased some amounts of the said steel LDP pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the steel LDP pipe to be used in the said system. The bids or quotations tendered by the pipe manufacturers to the contractors were incorporated into the sealed bids

submitted by the contractors to the plaintiff. The pipe manufacturers, including defendants, knew that the bids or quotations which they submitted to the contractor for the steel LDP pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said steel LDP pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff, either directly to the pipe manufacturer or to the contractor who in turn would pay said price to the pipe manufacturer.

13. Beginning sometime prior to the year 1955 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, the defendants and the co-conspirators knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of steel LDP pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of steel LDP pipe and to allocate and divide orders for the purchase of steel LDP pipe among themselves.

15. During the period of time covered by this complaint, the defendants and the co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In 1955 several meetings were held at the Statler Hilton and Sheraton-West hotels in Los

Angeles attended by P. M. Cobb and James Greer Thompson of U.S. Steel; Ernest L. Ilsley and Homer Barnes of Kaiser; and Monte Lindmoe of Southwest Welding. At these meetings an agreement was reached which included the following terms:

(i) Sales of steel LDP pipe would be divided so that U.S. Steel would obtain 38 per cent, Kaiser 35 per cent, and Southwest Welding 27 per cent of the total of such sales;

(ii) Meetings would be held periodically between representatives of the three companies in Los Angeles and San Francisco to discuss and decide in advance which company would be entitled to submit the lowest bid on each major job known to be scheduled for installation in the near future;

(iii) Information would be exchanged regularly between representatives of the three companies to enable each participant to keep a record of the amount of business secured by each such participant. Tallies were kept by Herb Thoedy in San Francisco and Norman David Lindley in Los Angeles for U.S. Steel;

(iv) Before final bids or quotations were submitted on each job of any importance, agreement would be reached by representatives of the participants on the dollar amount to be bid by each participant;

(v) Bids would be submitted in such a way as to create the semblance of competitive bidding and pricing.

(b) The terms of this agreement were adhered to by the defendants throughout the period of this complaint, except that in 1961 Southwest Welding was dissolved and U.S. Steel and Kaiser reallocated the business between themselves;

(c) Many phone calls were made between Monte Parker Lindmoe of Southwest Welding; James Greer Thompson, Norman David Lindley, and P. M. Cobb of U.S. Steel; and Homer A. Barnes and Ernest L. Ilsley of Kaiser to reach agreement on dollar amounts to be bid on future jobs.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of steel LDP pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they further falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact known to defendants but unknown to plaintiff, the said bids submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary, and non-competitive.

17. With respect to each such contract awarded for the supply of steel LDP pipe during the aforesaid period of the conspiracy, the defendant to which such contract was awarded presented and/or caused to be presented to plaintiff for payment or approval by it numerous claims, knowing such claims to be false, fic-

titious, or fraudulent in that such claims were based on a contract which had been falsely or fraudulently procured by reason of the aforesaid bidding practices.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for steel LDP pipe than would have been the case but for the illegal conduct complained of herein, and has been financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

COUNT II

21. As an alternative to the claim alleged in Count One, the United States of America, in its aforesaid capacity as purchaser of steel LDP pipe for use by Federal governmental organizations, brings this suit

against the defendants under Section 4A of the Act of Congress of October 15, 1914, c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. The allegations contained in paragraphs 2, 3, and 5 through 11 of this complaint are here realleged with the same force and effect as though set forth in full.

23. Beginning prior to the year 1955 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of aforesaid interstate trade and commerce in steel LDP pipe in the western area in violation of Section 1 of the Sherman Act.

24. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conpirators to submit collusive and rigged bids for the sale of steel LDP pipe and to allocate and divide orders for the purchase of steel LDP pipe among themselves.

25. During the period of time covered by this complaint, the defendants and co-conspirators for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of the complaint which are here re-

alleged with the same force and effect as though set forth in full.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for steel LDP pipe throughout the western area have been raised, fixed and maintained at high and artificial levels;

(b) Price competition in the sale of steel LDP pipe throughout the western area has been restrained, suppressed, and eliminated;

(c) Purchasers of steel LDP pipe throughout the western area have been deprived of the benefits of free competition in the purchase of steel LDP pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage including Federal governmental organizations such as the Bureau of Reclamation and the Unted States Army Corps of Engineers, have been forced to pay high artificially fixed prices for steel LDP pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment in this District against Kaiser and United States Steel in March 1964. (*United States v. Kaiser Steel Corporation et al.*, Criminal No. 33339). It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1955, plaintiff has purchased substantial quantities of steel LDP pipe from defendants for use in the western area of the United States. In purchasing said steel LDP pipe, plaintiff in some instances has invited formal, sealed competitive bids from prospective suppliers, including defendants, and has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids solicited by it during the period covered by this complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the benefit of unrestricted competition in prices for steel LDP pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased steel LDP pipe under construction contracts with independent contractors who had purchased said steel LDP pipe from defendants at high, noncompetitive prices. By the operation of defendants' agreements and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have been the case but for the violation of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, the plaintiff, United States of America, has been injured and financially damaged by defendants in an amount which is presently undetermined.

32. WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act;

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. § 15A), or some lesser amount to the extent that it has recovery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

COUNT III

33. As a third claim, the United States of America brings this suit under Section 4 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209 (15 U.S.C. § 4), as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", commonly known at the Sherman Act, in order to prevent and restrain continuing violations by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. § 1).

34. The allegations contained in paragraphs 2, 3 and 5 through 11 of the complaint are here realleged with the same force and effect as though set forth in full.

35. Beginning in or prior to the year 1955 and continuing thereafter until at least January 1962, the exact dates being to the plaintiff unknown, defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in steel LDP pipe in the western area, in violation of Section 1 of the Sherman Act.

36. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of steel LDP pipe and to allocate and divide orders for the purchase of steel LDP pipe among themselves.

37. The aforesaid unlawful combination and conspiracy was terminated only after plaintiff began its investigation of the conspiracy herein alleged, and will be resumed unless the relief herein prayed for is granted.

38. During the period of time covered by this complaint the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of the complaint which are here realleged with the same force and effect as though set forth in full.

39. The allegations contained in paragraph 26 of the complaint are here realleged with the same force and effect as though set forth in full.

40. WHEREFORE, plaintiff prays:

(a) That the Court adjudge and decree that the defendants, and each of them, have engaged in an unlawful combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

(b) That each of the defendants, its successors, assignees, subsidiaries and transferees, and the respective officers, directors, agents, and employees thereof, and all other perons acting or claiming to act on behalf thereof, be perpetually enjoined and restrained from, in any manner, directly or indirectly:

(i) Continuing, maintaining, or renewing the aforesaid combination and conspiracy and from engaging in any other combination, conspiracy, agreement, understanding, or concert of action having a similar purpose or effect and from adopting or following any practice, plan, program, or device having a similar purpose or effect.

(ii) Entering into an agreement, arrangement, concerted activity, or understanding with any other manufacturer, distributor or seller of pipe for the conveyance of water or sewage or with any company providing the services of lining or coating such pipe or with any association of said manufacturers, distributors, or sellers, in relation to said product, products or services, to:

(1) Fix or adopt prices, terms, or conditions of sale;

(2) Maintain or stabilize prices;

(3) Submit noncompetitive, collusive, complimentary, or rigged bids or quotations to any customer;

(4) Allocate or divide orders, territories or customers;

(5) Exchange information concerning bids, prices, terms or conditions of sale;

(6) Exclude or eliminate others from competing;

(iii) With respect to pipe for the conveyance of water or sewage or for the service of lining and/or coating such pipe:

(1) Coercing or inducing others to restrict their production to certain sizes or types of the aforesaid pipe;

(2) Coercing or inducing others to restrict their sales to any territory;

(3) Quoting or bidding any job only on an "all or nothing" basis;

(4) Cocercing or inducing contractors to enter agreements to deal with one supplier only before the opening of bids;

(5) Communicating to or exchanging with any manufacturer, distributor or seller of pipe for the conveyance of water or sewage or with any company providing the services of lining or coating such pipe any information concerning bids, prices, terms or conditions of sale;

(c) That the Court order each defendant for a period of five (5) years to certify in writing,

through one of its officers, at the time of every succeeding change in published prices, "estimating prices," terms, or conditions of sale of pipe, for the conveyance of water or sewage, that said change was independently arrived at by said defendant and was not the result of any agreement or understanding with any competitor; and further that each defendant retain in its files the aforesaid certifications which shall be made available to plaintiff for inspection upon reasonable written demand.

(d) That the Court order that each defendant maintain, for a period of five (5) years from the date of entry of final judgment herein, a record of all meetings attended by any of its officers, directors, or employees having managerial or supervisory authority in connection with the sale or pricing of pipe, for the conveyance of water or sewage, and similar representatives of any of its competitors; said records shall include the dates and places of said meetings, the names of all persons in attendance, and a listing of the topics discussed thereat; said records shall be made available to plaintiff for inspection upon reasonable written demand.

(e) That the Court order each defendant to annex to every sealed bid or quotation on pipe for the conveyance of water or sewage a written certification by an officer of said defendants, or by the official of said defendant having authority to determine the bid or quotation involved, that said bid or quotation was not the result of any agreement, understanding, or communication between the defendant and any of its competitors.

(f) That plaintiff have such other, further, and different relief as the Court may deem just and proper in the premises.

(g) That plaintiff recover the costs of this suit.

Dated: October 28, 1964.

/s/ Nicholas deB. Katzenbach
NICHOLAS deB. KATZENBACH
Acting Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
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/s/ Thomas R. Sheridan
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/s/ Barbara J. Svedberg
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/s/ Herbert A. Karzen
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Attorneys, Department of Justice

Filed October 28, 1964.

First Amended Complaint.

(Injunction and Money Damages).

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. United Concrete Pipe Corp.; American Pipe and Construction Co.; Kaiser Steel Corporation; and United States Steel Corporation, Defendants. Civil No. 64-834-HW.

The United States of America, plaintiff herein, by its attorneys, brings this action against the defendants named herein in three counts. As a first claim the United States of America in its capacity as purchaser of alternate large diameter pressure pipe for use by Federal agencies, brings this suit under the False Claims Act (31 U.S.C. §§ 231-233) for double the amount of damages sustained, plus forefeitures (Count One), and as a second claim, alternatively, under Section 4A of the Clayton Act (15 U.S.C. § 15A) to recover its actual damages (Count Two). The plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies, filed by the plaintiff concurrently with the filing of this complaint.

As a third claim, the United States of America brings this suit under Section 4 of the Sherman Act (15 U.S.C. § 4), in order to prevent and restrain continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1) (Count Three).

COUNT I

1. As a first claim, the United States of America in its capacity as purchaser of alternate large diameter

pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the western area of the United States, brings this suit under 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233, commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant is engaged in the business of manufacturing and of selling alternate large diameter pressure pipe principally in the city indicated in the western area.

Name of Company	State of Incorporation	Principal Place of Business
United Concrete Pipe Co. (referred to herein as United)	California	Baldwin Park, California
American Pipe and Construction Co. (referred to herein as American)	California	Monterey Park, California
Kaiser Steel Corporation (referred to herein as Kaiser)	Nevada	Oakland, California
United States Steel Corporation (referred to herein as U.S. Steel)	New Jersey	Commerce, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively engaged in the management, direction, or control of its affairs.

6. Southwest Welding and Manufacturing Company (referred to herein as Southwest Welding), American Concrete Pipe Co. of Phoenix, Arizona, (referred to herein as American Concrete), Pipe Linings, Inc. and certain officers and employees of said corporations and of the corporate defendants participated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Steel large diameter pressure pipe," or steel LDP pipe means heavy walled welded steel pipe which is manufactured in diameters of over 24 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Concrete large diameter pressure pipe," or concrete LDP pipe means concrete pressure pipe, which ordinarily utilizes steel sheets or skelp in its manufacture, in diameters over 24 inches, sold for the conveyance of water and sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(c) "Alternate large diameter pressure pipe" or "alternate LDP pipe" means pipe which is manufactured and sold, or offered for sale in jobs where the specifications permit the use of either concrete LDP pipe or steel LDP pipe;

(d) "Metal components" refers to steel plate, sheets, skelp, rods, wires and mesh used in the production of alternate LDP pipe;

(e) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

(f) "End users" means customers who purchase and install or have installed alternate LDP pipe in systems primarily for the conveyance of water or sewage under pressure.

8. Alternate LDP pipe is used for the conveyance of drinking water under pressure and for irrigation and sanitation systems. The construction of systems utilizing alternate LDP pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. The end users draft or have drafted the specifications where this is appropriate, so that either concrete LDP pipe or steel LDP pipe can be used in the system. Prior to submitting bids to the end user, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award-winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user. End users also purchase pipe directly from pipe manufacturers usually on the basis of sealed competitive bids. The specifications for alternate LDP pipe require that the pipe be lined and/or coated with concrete. When the steel LDP pipe manufacturers plan to submit bids or quotations on an alternate LDP pipe job, they, in turn, solicit quotations or bids from the

concrete LDP pipe manufacturers for the performance of this service. The cost of this service is then incorporated in the quotation or bid submitted to the general contractors or end users by the steel LDP pipe manufacturer.

9. The corporate defendants are the principal manufacturers of alternate LDP pipe in the western area and during the period 1958 through 1961 their average annual sales of alternate LDP pipe in the western area were at least $15,000,000. Because of the relatively limited number of manufacturers of alternate LDP pipe, general contractors and end users, where the specifications permit the use of alternate LDP pipe, frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench site or as near as possible to the place where it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of alternate LDP pipe at their plants within the western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said alternate LDP pipe moves in a continuous and uninterrupted flow from the place of manufacture to points of installation outside the State where said pipe was manufactured.

10. Substantial quantities of metal components are used in the manufacture of alternate LDP pipe. The defendant manufacturers often obtain said metal com-

ponents in anticipation of orders or to enable them to fill existing orders for alternate LDP pipe. Substantial quantities of the said metal components are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the metal components is necessary to the manufacture and sale of alternate LDP pipe by the defendants in the western area and the defendants and co-conspirators are conduits through which said metal components flow in a continuous, uninterrupted stream in interstate commerce from the place where produced to the place where it is incorporated into alternate LDP pipe and on the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of alternate LDP pipe in the western area necessarily and directly restrains and affects the interstate flow of alternate LDP pipe and the metal components used in the manufacture of said pipe.

12. During the period covered by this complaint, the plaintiff through its various executive departments and agencies has purchased substantial quantities of alternate LDP pipe for use in the construction of systems to convey water and sewage throughout the western area of the United States. Plaintiff purchased some amounts of the said alternate LDP pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts, it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply alternate LDP pipe to plaintiff. Plaintiff has also purchased some amounts of the said alternate LDP pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking

to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the alternate LDP pipe to be used in the said system. The bids or quotations tendered by the pipe manufacturers to the contractors were incorporated into the sealed bids submitted by the contractors to the plaintiff. The pipe manufacturers, including defendants, knew that the bids or quotations which they submitted to the contractor for the alternate LDP pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said alternate LDP pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff, either directly to the pipe manufacturer or to the contractor who, in turn, would pay said price to the pipe manufacturer.

13. Beginning sometime prior to the year 1955 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, the defendants and the co-conspirators knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of alternate LDP pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate LPD pipe and to allocate and divide orders for the purchase of alternate LDP pipe among themselves.

15. During the period of time covered by this complaint, the defendants and the co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In or about 1955, meetings were held between P. M. Cobb and James Greer Thompson of U.S. Steel; Ernest L. Ilsley and Homer Barnes of Kaiser; Monte Lindmoe of Southwest Welding; Lloyd R. Earl and Richard I. Young of United; and Robert V. Edwards and Elliott E. Brainard of American. At these meetings an agreement was reached or reaffirmed which included the following terms:

(i) that sales of alternate LDP pipe would be divided so that 50 per cent of such sales would be obtained by the manufacturers of concrete LDP pipe and 50 per cent would be obtained by the manufacturers of steel LDP pipe and that the amount of business involved in the lining and coating of the alternate LDP pipe by the concrete LDP pipe manufacturers would be included in the share to be obtained by the concrete LDP pipe manufacturers;

(ii) that the steel LDP pipe manufacturers would not install their own lining and coating facilities but would rely on the concrete LDP pipe manufacturers for this service;

(iii) that meetings would be held periodically between representatives of the steel LDP pipe manufacturers group and concrete LDP pipe manufacturers group in Los Angeles and San Francisco to discuss and decide in advance

which group would be entitled to submit the lowest bid on each major job known to be scheduled for installation in the near future;

(iv) that information would be exchanged regularly between representatives of the concrete LPD pipe manufacturers and the steel LDP pipe manufacturers to enable each group to keep a record of the amount of business secured by each;

(v) that bids would be submitted in such a way as to create the semblance of competitive bidding and pricing.

(b) Many phone calls were made between James Greer Thompson, negotiator for the steel LDP pipe manufacturers and Elliott E. Brainard, negotiator for the concrete LDP pipe manufacturers to reach agreement on which group would submit the lowest bid on each job.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of alternate LDP pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they further falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact known to defendants but unknown to plaintiff, the said bids submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary, and noncompetitive.

17. With respect to each such contract awarded for the supply of alternate LDP pipe during the aforesaid period of the conspiracy, the defendant to which such contract was awarded, presented and/or caused to be presented to plaintiff for payment or approval by it numerous claims, knowing such claims to be false, fictitious, or fraudulent in that such claims were based on a contract which has been falsely or fraudulently procured by reason of the aforesaid bidding practices.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or to contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for alternate LDP pipe than would have been the case but for the illegal conduct complained of herein, and has been financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000.00) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

COUNT II

21. As an alternative to the claim, alleged in Count One, the United States of America, in its aforesaid capacity as purchaser of alternate LDP pipe for use by Federal governmental organizations, brings this suit against the defendants under Section 4A of the Act of Congress of October 15, 1914, c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. The allegations contained in paragraphs 2, 3, and 5 through 11 of this complaint are here realleged with the same force and effect as though set forth in full.

23. Beginning prior to the year 1955 and continuing thereafter until at least August 1962, the exact dates being to the plaintiff unknown, defendants, and co-conspirators, have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in alternate LDP pipe in the western area, in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

24. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate LDP pipe and to allocate and divide orders for the purchase of alternate LDP pipe among themselves.

25. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 16 of the complaint which are here realleged with the same force and effect as though set forth in full.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for alternate LDP pipe throughout the western area have been raised, fixed, and maintained at high and artificial levels;

(b) Price competition in the sale of alternate LDP pipe throughout the western area has been restrained, suppressed, and eliminated;

(c) Purchasers of alternate LDP pipe throughout the western area have been deprived of the benefits of free competition in the purchase of alternate LDP pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage, including Federal governmental organizations such as the Bureau of Reclamation and the United States Army Corps of Engineers, have been forced to pay high artificially fixed prices for alternate LDP pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment in this District against American, United, Kaiser, and U.S.

Steel in March 1964. (*United States v. United Concrete Pipe Corp.*, Criminal No. 33340). It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1955, plaintiff has purchased substantial quantities of alternate LDP pipe from defendants for use in the western area of the United States. In purchasing said alternate LDP pipe, plaintiff in some instances has invited formal, sealed competitive bids from prospective suppliers, including defendants, and has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids solicited by it during the period covered by this complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the benefit of unrestricted competition in prices for alternate LDP pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased alternate LDP pipe under construction contracts with independent contractors who had purchased said alternate LDP pipe from defendants at high, noncompetitive prices. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have been the case but for the violations of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, plaintiff, United States of America, has been injured and financially damaged by defendants in an amount which is presently undetermined.

32. WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act.

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. §15A), or some lesser amount to the extent that it has recovery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

COUNT III

33. As a third claim, the United States of America brings this suit under Section 4 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209 (15 U.S.C. § 4), as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, in order to prevent and restrain continuing violations by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. § 1).

34. The allegations contained in paragraphs 2, 3 and 5 through 11 of the complaint are here realleged

with the same force and effect as though set forth in full.

35. Beginning in or prior to the year 1955 and continuing thereafter until at least January 1962, the exact dates being to the plaintiff unknown, defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in alternate LDP pipe in the western area, in violation of Section 1 of the Sherman Act.

36. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate LDP pipe and to allocate and divide orders for the purchase of alternate LDP pipe among themselves.

37. The aforesaid unlawful combination and conspiracy was terminated only after plaintiff began its investigation of the conspiracy herein alleged, and will be resumed unless the relief herein prayed for is granted.

38. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of the complaint which are here realleged with the same force and effect as though set forth in full.

39. The allegations contained in paragraph 26 of the complaint are here realleged with the same force and effect as though set forth in full.

40. WHEREFORE, plaintiff prays:

(a) That the Court adjudge and decree that the defendants, and each of them, have engaged in an unlawful combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

(b) That each of the defendants, its successors, assignees, subsidiaries and transferees, and the respective officers, directors, agents, and employees thereof, and all other persons acting or claiming to act on behalf thereof, be perpetually enjoined and restrained from, in any manner, directly or indirectly:

(i) Continuing, maintaining, or renewing the aforesaid combination and conspiracy and from engaging in any other combination, conspiracy, agreement, understanding, or concert of action having a similar purpose or effect and from adopting or following any practice, plan, program, or device having a similar purpose or effect.

(ii) Entering into any agreement, arrangement, concerted activity, or understanding with any other manufacturer, distributor or seller of pipe for the conveyance of water or sewage or with any company providing the services of lining or coating such pipe or with any association of said manufacturers, distributors, or sellers, in relation to said product, products or services, to:

(1) Fix or adopt prices, terms, or conditions of sale;

(2) Maintain or stabilize prices;

(3) Submit noncompetitive, collusive, complimentary, or rigged bids or quotations to any customer;

(4) Allocate or divide orders, territories or customers;

(5) Exchange information concerning bids, prices, terms or conditions of sale;

(6) Exclude or eliminate others from competing.

(iii) With respect to pipe for the conveyance of water or sewage or for the service of lining and/or coating such pipe:

(1) Coercing or inducing others to restrict their production to certain sizes or types of the aforesaid pipe;

(2) Coercing or inducing others to restrict their sales to any territory;

(3) Quoting or bidding any job only on an "all or nothing" basis;

(4) Coercing or inducing contractors to enter agreements to deal with one supplier only before the opening of bids;

(5) Communicating to or exchanging with any manufacturer, distributor or seller of pipe for the conveyance of water or sewage or with any company providing the services of lining or coating such pipe any information concerning bids, prices, terms or conditions of sale.

(c) That the Court order each defendant for a period of five (5) years to certify in writing, through one of its officers, at the time of every

succeeding change in published prices, "estimating prices," terms, or conditions of sale of pipe, for the conveyance of water or sewage, that said change was independently arrived at by said defendant and was not the result of any agreement or understanding with any competitor; and further that each defendant retain in its files the aforesaid certifications which shall be made available to plaintiff for inspection upon reasonable written demand.

(d) That the Court order that each defendant maintain, for a period of five (5) years from the date of entry of final judgment herein, a record of all meetings attended by any of its officers, directors, or employees having managerial or supervisory authority in connection with the sale or pricing of pipe, for the conveyance of water or sewage, and similar representatives of any of its competitors; said records shall include the dates and places of said meetings, the names of all persons in attendance, and a listing of the topics discussed thereat; said reports shall be made available to plaintiff for inspection upon reasonable written demand.

(e) That the Court order each defendant to annex to every sealed bid or quotation on pipe for the conveyance of water or sewage a written certification by an officer of said defendant, or by the official of said defendant having authority to determine the bid or quotation involved, that said bid or quotation was not the result of any agreement, understanding, or communication between the defendant and any of its competitors.

(f) That plaintiff have such other, further, and different relief as the Court may deem just and proper in the premises.

(g) That plaintiff recover the costs of this suit.

Dated: October 28, 1964.

/s/ Nicholas deB. Katzenbach
NICHOLAS deB. KATZENBACH
Acting Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

/s/ Thomas R. Sheridan
THOMAS R. SHERIDAN
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/s/ Stanley E. Disney
STANLEY E. DISNEY
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/s/ Barbara J. Svedberg
BARBARA J. SVEDBERG

/s/ Herbert A. Karzen
HERBERT A. KARZEN

/s/ John J. Schimmenti
JOHN J. SCHIMMENTI
Attorneys, Department of Justice

Filed October 28, 1964.

First Amended Complaint.

(Injunction and Money Damages).

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. U.S. Industries, Inc.; Smith-Scott Co., Inc.; United States Steel Corporation; American Pipe and Construction Co.; and United Concrete Pipe Corp., Defendants. Civil No. 64-835-HW.

The United States of America, plaintiff herein, by its attorneys, brings this action against the defendants named herein in three counts. As a first claim the United States of America in its capacity as purchaser of alternate small diameter pressure pipe for use by Federal agencies, brings this suit under the False Claims Act (31 U.S.C. §§ 231-233) for double the amount of damages sustained, plus forfeitures (Count One), and as a second claim, alternatively, under Section 4A of the Clayton Act (15 U.S.C. § 15A) to recover its actual damages (Count Two). This plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies, filed by the plaintiff concurrently with the filing of this complaint.

As a third claim, the United States of America brings this suit under Section 4 of the Sherman Act (15 U.S.C. § 4,), in order to prevent and restrain continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1) (Count III).

COUNT I

1. As a first claim, the United States of America in its capacity as purchaser of alternate small diameter pressure pipe for use by those Federal governmental organizations engaged in the construction of systems to convey water and sewage throughout the western area of the United States, brings this suit under Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233), commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant was engaged in the business of manufacturing and of selling alternate small diameter pressure pipe, principally in the city indicated, in the western area during the time of the conspracy alleged herein.

Name of Company	State of Incorporation	Place of Business
U.S. Industries, Inc. (referred to herein as USI)	Delaware	Azusa, California
Smith-Scott Co. Inc. (referred to herein as Smith-Scott)	California	Riverside, California
United States Steel Corporation (referred to herein as U.S. Steel)	New Jersey	Linden, Utah
American Pipe and Construction Co. (referred to as American)	California	Monterey Park, California
United Concrete Pipe Corp. (referred to as United)	California	Baldwin Park, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively engaged in the management, direction, or control of its affairs.

6. American Concrete Pipe Co., engaged in the business of manufacturing and of selling concrete pipe in the western area, is a subsidiary of American and is incorporated in the State of Arizona. It and various other companies not made defendants herein, participated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Steel small diameter pressure pipe" or "steel SDP pipe" means thin walled welded steel pipe, manufactured from steel plate in diameters of 12 inches to 48 inches and sold for the conveyance of water and sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Concrete small diameter pressure pipe" or "concrete SDP pipe" means concrete cylinder pipe, which utilizes steel sheets or skelp in its manufacture, in diameters from 12 inches to 48 inches and sold for the conveyance of water or sewage under internal pressure exceeding 115 feet of head or 50 pounds per square inch;

(c) "Alternate small diameter pressure pipe" or "alternate SDP pipe" means pipe which is manufactured and sold, or offered for sale in jobs where the specifications permit the use of either concrete SDP pipe or steel SDP pipe;

(d) "Metal components" refers to steel plate, sheets, skelp, rods, wire and mesh used in the manufacture of alternate SDP pipe;

(e) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho, and Hawaii; and

(f) "End users" means customers who purchase and install or have installed alternate SDP pipe.

8. The construction of systems utilizing alternate SDP pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. The end users draft or have drafted the specifications where this is appropriate, so that either concrete SDP pipe or steel SDP pipe can be used in the system. Prior to submitting bids to the end user, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user. End users also purchase pipe directly from pipe manufacturers usually on the basis of sealed competitive bids.

9. The corporate defendants are the principal manufacturers of alternate SDP pipe in the western area

and during the period 1958 through 1961 their average annual sales of alternate SDP pipe in the western area were at least $18,000,000. Because of the relatively limited number of manufacturers of alternate SDP pipe, general contractors and end users where the specifications permit the use of alternate SDP pipe, frequently solicit bids both from manufacturers of concrete SDP pipe and from manufacturers of steel SDP pipe, and frequently they solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench site or as near as possible to the place where it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of alternate SDP pipe at their plants within the western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said alternate SDP pipe moved in a continuous and uninterrupted flow from the place of manufacture to points of installation outside the State where said pipe was manufactured.

10. Substantial quantities of metal components are used in the manufacture of alternate SDP pipe. The defendant manufacturers purchase said metal components in anticipation of orders or to enable them to fill existing orders for alternate SDP pipe. Substantial quantities of the metal components are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the metal com-

ponents is necessary to the manufacture and sale of alternate SDP pipe by the defendants in the western area and the defendants and co-conspirators are conduits through which said metal components flow in a continuous uninterrupted stream in interstate commerce from the place where said components are produced to the place where the components are incorporated into alternate SDP pipe and on to the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of alternate SDP pipe in the western area necessarily and directly restrains and affects the interstate flow of concrete pipe and the metal components used in the construction of said pipe.

12. During the period covered by this complaint, the plaintiff through its various executive departments and agencies has purchased substantial quantities of alternate SDP pipe for use in the construction of systems to convey water and sewage throughout the western area of the United States. Plaintiff purchases some amounts of the said alternate SDP pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts, it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply alternate SDP pipe to plaintiff. Plaintiff has also purchased some amounts of the said alternate SDP pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the alternate SDP pipe to be used in the said

system. The bids or quotations tendered by the pipe manufacturers to the contractors were incorporated into the sealed bids submitted by the contractors to the plaintiff. The pipe manufacturers, including defendants and co-conspirators, knew that the bids or quotations which they submitted to the contractor for the alternate SDP pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said alternate SDP pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff either directly to the pipe manufacturer or to the contractor, who, in turn, would pay said price to the pipe manufacturer.

13. Beginning in or prior to the year 1955 and continuing thereafter until at least January 1962, the exact dates being to the plaintiff unknown, the defendants, and the co-conspirators knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of alternate SDP pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate SDP pipe and to allocate and divide orders for the purchase of alternate SDP pipe among themselves.

15. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combina-

tion and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In or before 1955 representatives of the alternate SDP pipe manufacturers reached an agreement which included the following terms:

(i) that sales of alternate SDP pipe would be divided so that a certain per cent of such sales would be obtained by the manufacturers of steel SDP pipe and a certain per cent by the manufacturers of concrete SDP pipe;

(ii) that information would be exchanged regularly between representatives of the concrete SDP pipe manufacturers and representatives of the steel SDP pipe manufacturers to enable each group to keep a record of the amount of business secured by each;

(iii) that bids would be submitted in such a way as to create the semblance of competitive bidding and pricing.

(b) The terms of this agreement were adhered to by the defendants and co-conspirators throughout the period of this complaint except that the percentage ratios were changed from time to time by agreement between the defendants and co-conspirators.

(c) At various times throughout the period of the conspiracy, Charles Eugene Lamar, John Harvey Barbazette and D. N. Chamberlain acted as "negotiators" for the steel SDP pipe manufacturers and Richard J. McConnell, Peter Van Kuran, Lawrence Robert Tollenaere and Corliss Dean acted as "negotiators" for the concrete SDP pipe manufacturers. These individuals passed along in-

formation to other members of their groups as to which group was "in line" for each job as it arose;

(d) Tallies were maintained by representatives of each corporate defendant for the purpose of keeping a record of whether a steel SDP pipe manufacturer or a concrete SDP pipe manufacturer obtained each job;

(e) Jobs for end users were allocated to the steel SDP pipe group or the concrete SDP pipe group of manufacturers at meetings or by telephone conversations between representatives of defendants and co-conspirators.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of alternate SDP pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact, known to defendants but unknown to plaintiff, the said bids submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary and noncompetitive.

17. With respect to each such contract awarded for the supply of alternate SDP pipe during the aforesaid period of the conspiracy, the defendant to which such contract was awarded presented and/or caused to be presented to plaintiff for payment or approval by it

numerous claims, knowing such claims to be false, fictitious or fraudulent in that such claims were based on a contract which had been falsely or fraudulently procured by reason of the aforesaid bidding practices.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or to contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for alternate SDP pipe than would have been the case but for the illegal conduct complained of herein, and has been financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000.00) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492, and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

COUNT II

21. As an alternative to the claim alleged in Count I, the United States of America, in its aforesaid capacity as purchaser of alternate SDP pipe for use by

Federal governmental organizations, brings this suit against the defendants under Section 4A of the Act of Congress of October 15, 1914, c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. The allegations contained in paragraphs 2, 3, and 5 through 11 of this Complaint are here realleged with the same force and effect as though set forth in full.

23. Beginning in or prior to the year 1955 and continuing thereafter until at least January 1962, the exact dates being to the plaintiff unknown, defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in alternate SDP pipe in the western area, in violation of Section 1 of the Sherman Act.

24. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate SDP pipe and to allocate and divide orders for the purchase of alternate SDP pipe among themselves.

25. During the period of time covered by this Complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of the Complaint which are

here realleged with the same force and effect as though set forth in full.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for alternate SDP pipe throughout the western area have been raised, fixed and maintained at high and artificial levels;

(b) Price competition in the sale of alternate SDP pipe throughout the western area has been restrained, suppressed, and eliminated;

(c) Purchasers of alternate SDP pipe throughout the western area have been deprived of the benefits of free competition in the purchase of alternate SDP pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage including Federal governmental organizations such as the Bureau of Reclamation and the United States Army Corps of Engineers, have been forced to pay high artificially fixed prices for alternate SDP pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment in this District against USI, Smith-Scott, U.S. Steel, American and United in March 1964. (*United States* v. *United States Industries, Inc.*, Criminal No. 33341.) It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1954, plaintiff has purchased substantial quantities of alternate SDP pipe from defendants for use in the western area of the United States. In purchasing said alternate SDP pipe, plaintiff in some instances has invited formal, sealed competitive bids from prospective suppliers, and has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids solicited by it during the period covered by this Complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the benefit of unrestricted competition in prices for alternate SDP pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased alternate SDP pipe under construction contracts with independent contractors who had purchased said alternate SDP pipe from defendants at high, noncompetitive prices. By the operation of defendants' agreements and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have been the case but for the violations of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, plaintiff United States of America has been injured and financially damaged by defendants, in an amount which is presently undetermined.

32. WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act;

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. § 15A), or some lesser amount to the extent that it has recovery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

COUNT III

33. As a third claim, the United States of America brings this suit under Section 4 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209 (15 U.S.C. § 4), as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", commonly known as the Sherman Act, in order to prevent and restrain continuing violations by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. § 1).

34. The allegations contained in paragraphs 2, 3 and 5 through 11 of the Complaint are here realleged with the same force and effect as though set forth in full.

35. Beginning in or prior to the year 1955 and continuing thereafter until at least January 1962, the exact dates being to the plaintiff unknown, defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in alternate SDP pipe in the western area, in violation of Section 1 of the Sherman Act.

36. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of alternate SDP pipe and to allocate and divide orders for the purchase of alternate SDP pipe among themselves.

37. The aforesaid unlawful combination and conspiracy was terminated only after plaintiff began its investigation of the conspiracy herein alleged, and will be resumed unless the relief herein prayed for is granted.

38. During the period of time covered by this Complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of the Complaint which are here realleged with the same force and effect as though set forth in full.

39. The allegations contained in paragraph 26 of the Complaint are herein realleged with the same force and effect as though set forth in full.

40. WHEREFORE, plaintiff prays:

(a) That the Court adjudge and decree that the defendants, and each of them, have engaged in an unlawful combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

(b) That each of the defendants, its successors, assignees, subsidiaries and transferees, and the respective officers, directors, agents, and employees thereof, and all other persons acting or claiming to act on behalf thereof, be perpetually enjoined and restrained from, in any manner, directly or indirectly:

(i) Continuing, maintaining, or renewing the aforesaid combination and conspiracy and from engaging in any other combination, conspiracy, agreement, understanding, or concert of action having a similar purpose or effect and from adopting or following any practice, plan, program, or device having a similar purpose or effect.

(ii) Entering into any agreement, arrangement, concerted activity, or understanding with any other manufacturer, distributor or seller of pipe for the conveyance of water or sewage or with any company providing the services of lining or coating such pipe or with any association of said manufacturers, distributors, or sellers, in relation to said product, products or services, to:

(1) Fix or adopt prices, terms, or conditions of sale;

(2) Maintain or stabilize prices;

(3) Submit noncompetitive, collusive, complimentary, or rigged bids or quotations to any customer;

(4) Allocate or divide orders, territories or customers;

(5) Exchange information concerning bids, prices, terms or conditions of sale;

(6) Exclude or eliminate others from competing;

(iii) With respect to pipe for the conveyance of water or sewage or for the service of lining and/or coating such pipe:

(1) Coercing or inducing others to restrict their production to certain sizes or types of the aforesaid pipe:

(2) Coercing or inducing others to restrict their sales to any territory;

(3) Quoting or bidding any job only on an "all or nothing" basis;

(4) Coercing or inducing contractors to enter agreements to deal with one supplier only before the opening of bids;

(5) Communicating to or exchanging with any manufacturer, distributor or seller of pipe for the conveyance of water and sewage or with any company providing the services of lining or coating such pipe any information concerning bids, prices, terms or conditions of sale;

(c) That the Court order each defendant for a period of five (5) years to certify in writing,

through one of its officers, at the time of every succeeding change in published prices, "estimating prices", terms or conditions of sale of pipe, for the conveyance of water or sewage, that said change was independently arrived at by said defendant and was not the result of any agreement or understanding with any competitor; and further that each defendant retain in its files the aforesaid certifications which shall be made available to plaintiff for inspection upon reasonable written demand.

(d) That the Court order that each defendant maintain, for a period of five (5) years from the date of entry of final judgment herein, a record of all meetings attended by any of its officers, directors, or employees having managerial or supervisory authority in connection with the sale or pricing of pipe, for the conveyance of water or sewage, and similar representatives of any of its competitors; said records shall include the dates and places of said meetings, the names of all persons in attendance, and a listing of the topics discussed thereat; said records shall be made available to plaintiff for inspection upon reasonable written demand.

(e) That the Court order each defendant to annex to every sealed bid or quotation on pipe for the conveyance of water or sewage a written certification by an officer of said defendant, or by the official of said defendant having authority to determine the bid or quotation involved, that said bid or quotation was not the result of any agreement, understanding, or communication between the defendant and any of its competitors.

(f) That plaintiff have such other, further, and different relief as the Court may deem just and proper in the premises.

(g) That plaintiff recover the costs of this suit.

Dated: October 28, 1964

/s/ Nicholas deB. Katzenbach
NICHOLAS deB. KATZENBACH
Acting Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
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/s/ Thomas R. Sheridan
THOMAS R. SHERIDAN
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/s/ Stanley E. Disney
STANLEY E. DISNEY
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/s/ Barbara J. Svedberg
BARBARA J. SVEDBERG

/s/ Herbert A. Karzen
HERBERT A. KARZEN

/s/ John J. Schimmenti
JOHN J. SCHIMMENTI
Attorneys, Department of Justice

Filed October 28, 1964.

First Amended Complaint.

(Injunction and Money Damages).

United States District Court, Southern District of California, Central Division.

United States of America, Plaintiff, vs. United States Steel Corporation; Smith-Scott Co., Inc.; and U.S. Industries, Inc., Defendants. Civil No. 64-836-HW.

The United States of America, plaintiff herein, by its attorneys, brings this action against the defendants named herein in three counts. As a first claim the United States of America in its capacity as purchaser of steel small diameter pressure pipe for use by Federal agencies, brings this suit under the False Claims Act (31 U.S.C. §§ 231-233) for double the amount of damages sustained, plus forfeitures (Count One), and as a second claim, alternatively, under Section 4A of the Clayton Act (15 U.S.C. § 15A) to recover its actual damages (Count Two). The plaintiff waives its right of recovery under Counts I and II hereof for any purchase for which it recovers damages under any other complaint concerning related conspiracies, filed by the plaintiff concurrently with the filing of this complaint.

As a third claim, the United States of America brings this suit under Section 4 of the Sherman Act (15 U.S.C. § 4), in order to prevent and restrain continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1) (Count Three).

COUNT I

1. As a first claim, the United States of America, in its capacity as purchaser of steel small diameter pressure pipe for use by those Federal governmental

organizations engaged in the construction of systems to convey water and sewage throughout the western area of the United States, brings this suit under 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233), commonly known as the False Claims Act.

2. Each of the defendants maintains an office, transacts business and is found within the Southern District of California.

3. Each of the corporations, listed below is made a defendant herein. Each of said corporations is organized and exists under the laws of the State indicated. Each defendant is engaged in the business of manufacturing and of selling steel small diameter pressure pipe principally in the city indicated in the western area.

Name of Company	State of Incorporation	Place of Business
United States Steel Corporation (referred to herein as U.S. Steel)	New Jersey	Linden, Utah
Smith-Scott Co., Inc. (referred to herein as Smith-Scott)	California	Riverside, California
U.S. Industries, Inc. (referred to herein as USI)	Delaware	Azusa, California

4. Inasmuch as all defendants are corporations, no defendant is in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States.

5. The acts alleged in this complaint to have been done by each of the defendants were authorized, ordered, or done by the officers, agents, employees, or representatives of each defendant while actively engaged in the management, direction, or control of its affairs.

6. Certain officers and employees of the corporate defendants participated as co-conspirators in the combination and conspiracy hereinafter charged and have performed acts and made statements in furtherance thereof.

7. As used herein, the term:

(a) "Steel small diameter pressure pipe" (referred to herein as steel SDP pipe), means thin walled welded steel pipe which is manufactured in diameters of 4 inches to 48 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

(b) "Western area" refers to California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

(c) "End users" means customers who purchase and install or have installed steel SDP pipe in systems primarily for the conveyance of water or sewage under pressure.

8. Steel SDP pipe is used for the conveyance of drinking water under pressure and for irrigation and sanitation systems. The construction of systems utilizing steel SDP pipe is often contracted for by the end user with general contractors on the basis of sealed competitive bids. Prior to submitting such bids, the general contractors solicit quotations from pipe manufacturers for the purchase price of the pipe delivered to the site where the pipe is to be installed. Thus the pipe manufacturer knows who the end user will be. The award-winning contractor purchases the pipe from the low quoting pipe manufacturer at the price quoted by the latter and passes this price along to the end user.

End users also purchase pipe directly from pipe manufacturers usually on the basis of sealed competitive bids.

9. The corporate defendants are the principal manufacturers of steel SDP pipe in the western area and during the period 1958 through 1961 their average annual sales of concrete pipe in the western area were at least $13,500,000. Because of the relatively limited number of manufacturers of steel SDP pipe, general contractors and end users frequently solicit bids for said pipe from manufacturers outside the State where said pipe is to be installed. Manufacturers of said pipe usually manufacture the pipe for a particular job only after receiving an order for it. Said manufacturers customarily identify each section of pipe so as to designate its position in the pipe line and deliver or have delivered said pipe direct to the trench site or as near as possible to the place where it will be installed. During the period of time covered by this complaint, the defendants herein have manufactured substantial quantities of steel SDP pipe at their plants within the western area, and have sold, shipped, and delivered said pipe to job sites outside the State where it was manufactured. Thus said steel SDP pipe moves in a continuous and uninterrupted flow from the place of manufacturers to points of installation outside the State where said pipe was manufactured.

10. Steel SDP pipe is fabricated largely from steel plate. The defendant manufacturers obtain said steel plate in anticipation of orders or to enable them to fill existing orders for steel SDP pipe. Substantial quantities of the said steel plate are produced outside the State where said pipe is manufactured. The movement in interstate commerce of the steel plate is necessary to

manufacture and sale of steel SDP pipe by the defendants in the western area and the defendants and co-conspirators are conduits through which said steel plate flows in a continuous uninterrupted stream in interstate commerce from the place where said steel plate is produced to the place where it is incorporated into steel SDP pipe and on to the final site where said pipe is installed.

11. Any restraint upon free competition in the production or sale of steel SDP pipe in the western area necessarily and directly restrains and affects the interstate flow of steel SDP pipe and the steel plate used in the construction of said pipe.

12. During the period covered by this complaint the plaintiff through its various executive departments and agencies has purchased substantial quantities of steel SDP pipe for use in the construction of systems to convey water and sewage throughout the western area of the United States. Plaintiff purchases some amounts of the said steel SDP pipe pursuant to direct sealed competitive bidding procedures and in accordance with this practice and for the purpose of letting contracts it advertised and called for bids from pipe manufacturers, including defendants, seeking to supply steel SDP pipe to plaintiff. Plaintiff has also purchased some amounts of the said steel SDP pipe pursuant to direct sealed competitive bidding procedures in accordance with which it advertised and called for bids from general contractors seeking to construct systems to convey water and sewage for plaintiff. Said contractors in turn solicited bids and quotations from the pipe manufacturers, including defendants, for the steel SDP pipe to be used in the said system. The bids or quotations tendered by the pipe manufacturers to the contractors

were incorporated into the sealed bids submitted by the contractors to the plaintiff. The pipe manufacturers, including defendants, knew that the bids or quotations which they submitted to the contractor for the steel SDP pipe would be thus incorporated into the bids submitted by the contractor to the plaintiff, that the price of said steel SDP pipe represented a substantial portion of the entire bid submitted by the contractor to the plaintiff and that said price would be paid by the plaintiff either directly to the pipe manufacturer or to the contractor who, in turn, would pay said price to the pipe manufacturer.

13. Beginning at least as early as May 1958, and continuing thereafter until at least January 1962, the exact dates being to the plaintiff unknown, the defendants and the co-conspirator, knowingly combined, conspired and agreed to defraud and injure the United States by obtaining or aiding to obtain the payment or allowance of false or fraudulent claims under contracts awarded them for the sale of steel SDP pipe during said period.

14. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of steel SDP pipe and to allocate and divide orders for the purchase of steel SDP pipe among themselves.

15. During the period of time covered by this complaint, the defendants and the co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, the following:

(a) In or about 1958 several meetings were held in P. M. Cobb's suit at the Sheraton-West Hotel in Los Angeles attended by P. M. Cobb and J. G. Thompson of U.S. Steel; Paul Allen Wing and William Scott of Smith-Scott; and Don Chamberlain and Charles Eugene Lamar of USI. At these meetings an agreement was reached which included the following terms:

(i) Each company would be entitled to only a certain percentage of the available business in steel SDP pipe in different geographical sites;

(ii) Limitations were placed on the sizes and types of steel SDP pipe each defendant would be allowed to manufacture in the future;

(iii) Meetings would be held between representatives of the three defendants to discuss and decide in advance which defendant would be entitled to submit the lowest bid on each major job known to be scheduled for installation in the near future;

(iv) Information would be exchanged regularly between representatives of the three companies to enable each participant to keep a record of the amount of business secured by each participant;

(v) Before final bids or quotations were submitted on each job of any importance, agreement would be reached by representatives of the participants on the dollar amount to be bid by each participant based on minimum discounts from standardized price lists;

(vi) Bids would be submitted in such a way as to create the semblance of competitive bidding and pricing;

(b) The terms of this agreement were adhered to by the defendants throughout the period of this complaint except that the percentage ratios were changed from time to time by agreement among the defendants;

(c) Subsequent meetings were held at various locations including the Sheraton-West Hotel in Los Angeles and the Uplander Hotel in Upland, California, and numerous phone calls were made between representatives of defendants at which future jobs were discussed by James Greer Thompson and Norman David Lindley of U.S. Steel; Charles Eugene Lamar, D. N. Chamberlain, John Harvey Barbazette, and John Allan Ellis of USI; and Frank Cook and Paul Allen Wing of Smith-Scott.

16. Pursuant to said combination and conspiracy, and as a result of the acts done in furtherance thereof, defendants have been awarded contracts for the sale of steel SDP pipe, and have received payments thereunder, on the basis of bids and quotations which they submitted and which they falsely or fraudulently represented to be bona fide, independent, competitive, and not the product of any collusion or agreement between the bidders, and the prices of which bids they further falsely or fraudulently represented to be normal, reasonable and competitive whereas, in fact known to defendants but unknown to plaintiff, the said bids submitted were sham and collusive and not the result of open competition, and prices therefor were unreasonable, arbitrary, and non-competitive.

17. With respect to each such contract awarded for the supply of steel SDP pipe during the aforesaid

period of the conspiracy, the defendant to which such contract was awarded presented and/or caused to be presented to plaintiff for payment or approval by it numerous claims, knowing such claims to be false, fictitious or fraudulent in that such claims were based on a contract which had been falsely or fraudulently procured by reason of the aforesaid bidding practices.

18. As a result of the presentment to it of the aforesaid false or fraudulent claims, and without knowledge thereof, plaintiff has paid the false or fraudulent claims to defendants or contractors to whom defendants submitted bids.

19. As a result of the illegal combination and conspiracy and the defendants' acts in furtherance thereof, plaintiff has been compelled to pay substantially higher prices for steel SDP pipe than would have been the case but for the illegal conduct complained of herein, and has been financially damaged by defendants, the amount of which is presently undetermined.

20. WHEREFORE, the United States of America:

(a) Demands judgment against defendants for Two Thousand Dollars ($2,000.00) for the said conspiracy, for double the amount of the damages it has sustained, and for such other forfeitures as are allowable by law, as provided in Sections 3490, 3491, 3492 and 5438 of the Revised Statutes (31 U.S.C. §§ 231-233) together with interest thereon and the costs of this suit; and

(b) Prays that it recover such other amounts and have such other and further relief as the Court shall deem just.

Count II

21. As an alternative to the claim alleged in Count One, the United States of America, in its aforesaid capacity as purchaser of steel SDP pipe for use by Federal governmental organizations, brings this suit against the defendants under Section 4A of the Act of Congress of October 15, 1914, c. 323, 38 Stat. 731, as amended (15 U.S.C. § 15A), entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act, to recover damages which it has sustained due to violations by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).

22. The allegations contained in paragraphs 2, 3, and 5 through 11 of this Complaint are here realleged with the same force and effect as though set forth in full.

23. Beginning at least as early as May 1958, and continuing thereafter until at least January 1962, the exact date being to the plaintiff unknown, defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate commerce in steel SDP pipe in the western area, in violation of Section 1 of the Sherman Act.

24. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of steel SDP pipe and to allocate and divide orders for the purchase of steel SDP pipe among themselves.

25. During the period of time covered by this complaint, the defendants and co-conspirators, for the

purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of the Complaint which are here realleged with the same force and effect as though set forth in full.

26. The effects of the aforesaid combination and conspiracy were that:

(a) Prices for steel SDP pipe throughout the western area have been raised, fixed and maintained at high and artificial levels;

(b) Price competition in the sale of steel SDP pipe throughout the western area has been restrained, suppressed, and eliminated;

(c) Purchasers of steel SDP pipe throughout the western area have been deprived of the benefits of free competition in the purchase of steel SDP pipe; and

(d) Public agencies engaged in the construction of systems to convey water and sewage including Federal governmental organizations such as the Bureau of Reclamation and the United States Army Corps of Engineers, have been forced to pay high artificially fixed prices for steel SDP pipe.

27. Plaintiff had no knowledge of the said combination and conspiracy, or of any facts which might have led to the discovery thereof until August 1960, and it first became fully aware of the scope of the unlawful conspiracy during the course of the grand jury proceedings which culminated in the return of an indictment in this District against U.S. Steel, Smith-Scott, and USI in March 1964 (*United States v. United*

States Steel Corporation, Criminal No. 33342). It could not have uncovered the conspiracy at an earlier date by the exercise of due diligence, inasmuch as the unlawful conspiracy had been fraudulently concealed by defendants.

28. Since at least 1955, plaintiff has purchased substantial quantities of steel SDP pipe from defendants for use in the western area of the United States. In purchasing said steel SDP pipe, plaintiff in some instances has invited formal, scaled competitive bids from prospective suppliers, including defendants, and has generally accepted the price offered by the lowest responsible bidder.

29. As a result of the illegal combination and conspiracy alleged herein, plaintiff has been led and induced by defendants to make contract awards on bids solicited by it during the period covered by this complaint at prices fixed by said illegal combination and conspiracy, and plaintiff has been denied thereby the benefit of unrestricted competition in prices for steel SDP pipe. By the operation of defendants' agreement and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices than would have been the case but for the violation of the antitrust laws herein alleged.

30. Plaintiff has also purchased steel SDP pipe under construction contracts with independent contractors who had purchased said steel SDP pipe from defendants at high, noncompetitive prices. By the operation of defendants' agreements and concert of action herein alleged, plaintiff has been compelled to pay substantially higher prices under said contracts than would have been the case but for the violations of the antitrust laws herein alleged.

31. As a result of the illegal combination and conspiracy alleged herein, the plaintiff, United States of America, has been injured and financially damaged by defendants, in an amount which is presently undetermined.

32. WHEREFORE, the United States of America:

(a) Prays that the herein alleged combination and conspiracy among defendants be adjudged and decreed to be in unreasonable restraint of interstate trade and commerce and in violation of Section 1 of the Sherman Act;

(b) Demands judgment against defendants for the damages suffered by it due to defendants' violation of the antitrust laws, as provided for in Section 4A of the Clayton Act (15 U.S.C. § 15A), or some lesser amount to the extent that it has recovery under Count I hereof, together with such interest thereon as is permitted by law and the costs of this suit; and

(c) Prays that it recover such other amounts as the Court shall deem just.

Count III

33. As a third claim, the United States of America brings this suit under Section 4 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209 (15 U.S.C. § 4), as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", commonly known as the Sherman Act, in order to prevent and restrain continuing violations by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. § 1).

34. The allegations contained in paragraphs 2, 3 and 5 through 11 of the Complaint are here realleged with the same force and effect as though set forth in full.

35. Beginning at least as early as May 1958 and continuing thereafter until at least January 1962, the exact dates being to the plaintiff unknown, defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in steel SDP pipe in the western area, in violation of Section 1 of the Sherman Act.

36. The aforesaid combination and conspiracy has consisted, among other things, of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to submit collusive and rigged bids for the sale of steel SDP pipe and to allocate and divide orders for the purchase of steel SDP pipe among themselves.

37. The aforesaid unlawful combination and conspiracy was terminated only after plaintiff began its investigation of the conspiracy herein alleged, and will be resumed unless the relief herein prayed for is granted.

38. During the period of time covered by this complaint, the defendants and co-conspirators, for the purpose of forming and effectuating the aforesaid combination and conspiracy, and in furtherance thereof, have done, among other things, those acts which are alleged in paragraph 15 of the Complaint which are here realleged with the same force and effect as though set forth in full.

39. The allegations contained in paragraph 26 of the Complaint are here realleged with the same force and effect as though set forth in full.

40. WHEREFORE, plaintiff prays:

(a) That the Court adjudged and decree that the defendants, and each of them, have engaged in an unlawful combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act;

(b) That each of the defendants, its successors, assignees, subsidiaries and transferees, and the respective officers, directors, agents, and employees thereof, and all other persons acting or claiming to act on behalf thereof, be perpetually enjoined and restrained from, in any manner, directly or indirectly:

(i) Continuing, maintaining, or renewing the aforesaid combination and conspiracy and from engaging in any other combination, conspiracy, agreement, understanding, or concert of action having a similar purpose or effect and from adopting or following any practice, plan, program, or device having a similar purpose or effect;

(ii) Entering into any agreement, arrangement, concerted activity, or understanding with any other manufacturer, distributor or seller of pipe for the conveyance of water or sewage or with any company providing the services of lining or coating such pipe or with any association of said manufacturers, distributors, or sellers, in relation to said product, products or services, to:

(1) Fix or adopt prices, terms, or conditions of sale;

(2) Maintain or stabilize prices;

(3) Submit non-competitive, collusive, complimentary, or rigged bids or quotations to any customer;

(4) Allocate or divide orders, territories or customers;

(5) Exchange information concerning bids, prices, terms or conditions of sale;

(6) Exclude or eliminate others from competing;

(iii) With respect to pipe for the conveyance of water or sewage or for the service of lining and/or coating such pipe:

(1) Coercing or inducing others to restrict their production to certain sizes or types of the aforesaid pipe;

(2) Coercing or inducing others to restrict their sales to any territory;

(3) Quoting or bidding any job only on an "all or nothing" basis;

(4) Coercing or inducing contractors to enter agreements to deal with one supplier only before the opening of bids;

(5) Communicating to or exchanging with any manufacturer, distributor or seller of pipe for the conveyance of water or sewage or with any company providing the services of lining or coating such pipe any information concerning bids, prices, terms or conditions of sale;

(c) That the Court order each defendant for a period of five (5) years to certify in writing,

through one of its officers, at the time of every succeeding change in published prices, "estimating prices", terms, or conditions of sale of pipe; for the conveyance of water or sewage, that said change was independently arrived at by said defendant and was not the result of any agreement or understanding with any competitor; and further, that each defendant retain in its files the aforesaid certifications which shall be made available to plaintiff for inspection upon reasonable written demand;

(d) That the Court order that each defendant maintain, for a period of five (5) years from the date of entry of final judgment herein, a record of all meetings attended by any of its officers, directors, or employees having managerial or supervisory authority in connection with the sale or pricing of pipe, for the conveyance of water or sewage, and similar representatives of any of its competitors; said records shall include the dates and places of said meetings, the names of all persons in attendance, and a listing of the topics discussed thereat; said records shall be made available to plaintiff for inspection upon reasonable written demand;

(e) That the Court order each defendant to annex to every sealed bid or quotation on pipe for the conveyance of water or sewage a written certification by an officer of said defendant, or by the official of said defendant having authority to determine the bid or quotation involved, that said bid or quotation was not the result of any agreement, understanding, or communication between the defendant and any of its competitors;

(f) That plaintiff have such other, further, and different relief as the Court may deem just and proper in the premises;

(g) That plaintiff recover the costs of this suit.

Dated: October 28, 1964.

/s/ Nicholas deB. Katzenbach
NICHOLAS deB. KATZENBACH
Acting Attorney General

/s/ William H. Orrick, Jr.
WILLIAM H. ORRICK, JR.
Assistant Attorney General

/s/ Harry G. Sklarsky
HARRY G. SKLARSKY
Attorney, Department of Justice

/s/ Thomas R. Sheridan
THOMAS R. SHERIDAN
United States Attorney

/s/ Stanley E. Disney
STANLEY E. DISNEY
Attorney, Department of Justice

/s/ Barbara J. Svedberg
BARBARA J. SVEDBERG

/s/ Herbert A. Karzen
HERBERT A. KARZEN

/s/ John J. Schimmenti
JOHN J. SCHIMMENTI
Attorneys, Department of Justice

Filed October 28, 1964.

Partial Final Judgment.

United States District Court, Central District of California.

United States of America, Plaintiff, vs. American Pipe and Construction Co., and United Concrete Pipe Corporation, Defendants. Civil No. 64-832-MP.

Plaintiff, United States of America, having filed its complaint herein on June 23, 1964, its first amended complaint on October 28, 1964 and its second amended complaint on December 2, 1965, and the consenting defendant, United Concrete Pipe Corporation, having appeared by its attorneys and having filed its answer to such complaint denying the substantive allegations thereof; and plaintiff and consenting defendant, by their respective attorneys, having severally consented to the making and entry of this Partial Final Judgment pursuant to a stipulation entered into on September 28, 1967, without trial or adjudication of or finding on any issue of fact or law herein, and without this Partial Final Judgment constituting any evidence or admission by either party to said stipulation with respect to any such issue, and the Court having considered the matter and being duly advised,

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties as aforesaid,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of the consenting defendant. The second amended complaint herein having presented more

than one claim for relief and dismissal being sought as to Counts I and II, based on a partial price adjustment, the Court hereby determines that there is no just reason for delay and directs entry of this Partial Final Judgment as to the claim made in Count III.

The Second amended complaint in Count III states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Partial Final Judgment:

A. "Pipe" means pipe constructed of concrete either with or without metal components, including both pressure and nonpressure pipe, sold and/or manufactured by the consenting defendant within the Western Area, as that term is hereinafter defined, for the conveyance of water or sewage;

B. "Western Area" means California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

C. "Person" means an individual, partnership, firm, association, corporation or other legal or business entity.

III

The provisions of this Partial Final Judgment applicable to the consenting defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with the consenting defendant who shall have received actual no-

tice of this Partial Final Judgment by personal service or otherwise, but shall not apply to transactions solely between the consenting defendant and its officers, directors or employees when acting in such capacity, or between the consenting defendant and its parent company, or between the consenting defendant and any of its subsidiaries or any subsidiary of its parent. This Partial Final Judgment shall not apply to conduct outside of the United States unless such conduct substantially affects the foreign or domestic commerce of the United States, but shall apply to sales by the consenting defendant to, or for the unknown use of, the plaintiff or any instrumentality or agency thereof.

IV

The consenting defendant is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or claiming any right under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturer or seller of pipe, or with any association of said manufacturers, or with any company providing the services of lining or coating of pipe, in relation to pipe, to:

A. Fix or adopt prices, terms or conditions of sale;

B. Maintain or adhere to agreed upon prices;

C. Submit noncompetitive, collusive or rigged bids or quotations to any customer;

D. Allocate or divide orders, territories or customers;

E. Communicate with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions

applicable to the sale of pipe to third persons before the bid opening of any such specific job or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally; or

F. Restrict production to certain types or sizes of pipe or restrict sales of pipe to any specified territory.

V

The consenting defendant is enjoined and restrained from:

A. Communicating with any other manufacturer of pipe for the purpose of attempting to coerce or force such manufacturer to restrict its sales of pipe to any territory or to restrict its production of pipe to certain sizes or types;

B. Communicating with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job, or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally.

VI

The consenting defendant is ordered and directed for a period of five years from the date of entry of this Partial Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local government authority, agency, or instrumentality for the sale of pipe, to supply, concurrently or within a reasonable time thereafter, a written certification by an officer or employee of the consenting defendant regularly having the

authority to determine the price for the type of bid involved, in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of $25,000 to annex to such written quotation or include therein a written certification by an officer or employee of the consenting defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of the consenting defendant regularly having the authority to determine published prices, at the time of every generally published revision of its published prices, terms or conditions of sale of pipe, that the decision to make such change was independently arrived at by the consenting defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Partial Final Judgment shall be deemed to prohibit the consenting defendant from:

A. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide purchase or sale or subcontract between them, or entering into or performing any such transaction.

B. Furnishing to distributors of its pipe suggested prices, terms or conditions relating to the resale of such pipe, or prescribing such prices, terms or conditions where it is otherwise lawful to do so;

C. Communicating to any other person providing the services of lining or coating pipe, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the lining or coating of pipe in connection with any proposed or actual bona fide transaction between them for the lining or for coating of pipe, or entering into or performing any such transaction; and

D. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide joint bid, quotation or joint venture by or between the consenting defendant and any other defendant in this action or any other person, where the job is of such size or nature or performable at such time, that in good faith the consenting defendant believes that it is undesirable to handle the entire job alone and the transaction is denominated as or is known to the purchaser to be a joint bid, quotation or joint venture, or entering into or performing any such transaction.

VIII

The consenting defendant is ordered and directed within 60 days from the date of entry of this Partial Final Judgment to furnish a copy of this Partial Final Judgment to each of its officers, plant managers, sales managers and assistant sales managers in the Western Area who are directly involved in the production or

sale of pipe, and to their successors within 30 days after hiring or appointment, and to retain in its files for a period of five years from the date of this Partial Final Judgment a written statement signed within 60 days after receipt thereof by each such employee setting forth the date he received a copy of this Partial Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Partial Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the consenting defendant made to its principal office, be permitted, subject to any legally recognized privilege:

A. Reasonable access, during office hours of the consenting defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the consenting defendant, relating to any matters contained in this Partial Final Judgment; and

B. Subject to the reasonable convenience of the consenting defendant and without restraint or interference from it, to interview officers or employees of the consenting defendant, who may have counsel present, regarding any such matters.

Upon such written request the consenting defendant shall submit such reports in writing with respect to any of the matters contained in this Partial Final Judgment as may from time to time be requested for the enforcement of this Partial Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone other than a duly authorized representative of the executive branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Partial Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Partial Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Partial Final Judgment, for the modification or termination of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: Dec. 8, 1967

/s/ Martin Pence
United States District Judge

APPENDIX A

By submitting this bid the undersigned hereby certifies that said bid has not been made or prepared in collusion with any other manufacturer of pipe and that the prices, terms or conditions applicable to the sale thereof have not been communicated by or on behalf of the bidder to any such manufacturer and will not be so communicated to any such manufacturer prior to the official opening of said bid, in violation of any decree entered against bidder by the United States District Court for the Central District of California which may be applicable to said bid.

Dated:

.....

Signature of Officer or Employee of the Corporation

APPENDIX B

By issuing this quotation or any changes thereof, the undersigned certifies that this quotation and any such changes have not been made or prepared in collusion with any other manufacturer of pipe in violation of any decree entered against seller by the United States District Court for the Central District of California which may be applicable to said quotation.

Dated:

.....

Signature of Officer or Employee of the Corporation

Filed December 8, 1967.

[Endorsement omitted in printing]

Entered December 8, 1967.

[Endorsement omitted in printing]

[Certification omitted in printing]

Partial Final Judgment.

United States District Court, Central District of California.

United States of America, Plaintiff, vs. Kaiser Steel Corporation and United States Steel Corporation, Defendants. Civil No. 64-833-MP.

Plaintiff, United States of America, having filed its complaint herein on June 23, 1964, its first amended complaint on October 28, 1964 and its second amended complaint on December 2, 1965, and each of the defendants Kaiser Steel Corporation and United States Steel Corporation, having appeared by its attorneys and each having filed its answer to such complaint denying the substantive allegations thereof; and plaintiff and defendants, by their respective attorneys, having severally consented to the making and entry of this Partial Final Judgment pursuant to a stipulation entered into on September 28, 1967, without trial or adjudication of or finding on any issue of fact or law herein, and without this Partial Final Judgment constituting any evidence or admission by any party to said stipulation with respect to any such issue, and the Court having considered the matter and being duly advised,

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties as aforesaid,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of each party consenting hereto. The sec-

ond amended complaint herein having presented more than one claim for relief and dismissal being sought as to Counts I and II, based on a partial price adjustment, the Court hereby determines that there is no just reason for delay and directs entry of this Partial Final Judgment as to the claim made in Count III.

The second amended complaint in Count III states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Partial Final Judgment:

A. "Pipe" means "steel large diameter pressure pipe" which is heavy walled welded steel pipe which is manufactured in diameters of over 24 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch.

B. "Western Area" means California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

C. "Person" means an individual, partnership, firm, association, corporation or other legal or business entity.

III

The provisions of this Partial Final Judgment applicable to any defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with such defendant who shall

have received actual notice of this Partial Final Judgment by personal service or otherwise, but shall not apply to transactions solely between any defendant and its officers, directors, or employees when acting in such capacity, or between any defendant and its parent company, or between any defendant and any of its subsidiaries or any subsidiary of its parent. This Partial Final Judgment shall not apply to conduct outside of the United States unless such conduct substantially affects the foreign or domestic commerce of the United States, but shall apply to sales by any defendant to, or for the known use of, the plaintiff or any instrumentality or agency thereof.

IV

Each of the defendants is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or claiming any right under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturer or seller of pipe, or with any association of said manufacturers, or with any company providing the services of lining or coating of pipe, in relation to pipe, to:

A. Fix or adopt prices, terms or conditions of sale;

B. Maintain or adhere to agreed upon prices;

C. Submit noncompetitive, collusive or rigged bids or quotations to any customer;

D. Allocate or divide orders, territories or customers;

E. Communicate with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions ap-

plicable to the sale of pipe to third persons before the bid opening of any such specific job or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally; or

F. Restrict production to certain types or sizes of pipe or restrict sales of pipe to any specified territory.

V

Each of the defendants is enjoined and restrained from:

A. Communicating with any other manufacturer of pipe for the purpose of attempting to coerce or force such manufacturer to restrict its sales of pipe to any territory or to restrict its production of pipe to certain sizes or types;

B. Communicating with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job, or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally.

VI

Each of the defendants is ordered and directed for a period of five years from the date of entry of this Partial Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local governmental authority, agency, or instrumentality for the sale of pipe, to supply, concurrently or within a reasonable time thereafter, a written certification by an officer or employee of such defendant regularly having the authority to de-

termine the price for the type of bid involved, in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of $25,000 to annex to such written quotation or include therein a written certification by an officer or employee of such defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of such defendant regularly having the authority to determine published prices, at the time of every generally published revision of its published prices, terms or conditions of sale of pipe, that the decision to make such change was independently arrived at by such defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Partial Final Judgment shall be deemed to prohibit either of the defendants from:

A. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide purchase or sale or subcontact be-

tween them, or entering into or performing any such transaction;

B. Furnishing to distributors of its pipe suggested prices, terms or conditions relating to the resale of such pipe, or prescribing such prices, terms or conditions where it is otherwise lawful to do so;

C. Communicating to any other person providing the services of lining or coating pipe, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the lining or coating of pipe in connection with any proposed or actual bona fide transaction between them for the lining or for coating of pipe, or entering into or performing any such transaction; and

D. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide joint bid, quotation or joint venture by or between a defendant and any other defendant in this action or any other person, where the job is of such size or nature, or performable at such time, that in good faith such defendant believes that it is undesirable to handle the entire job alone and the transaction is denominated as or is known to the purchaser to be a joint bid, quotation or joint venture, or entering into or performing any such transaction.

VIII

Each of the defendants is ordered and directed within 60 days from the date of entry of this Partial Final Judgment to furnish a copy of this Partial Final Judgment to each of its officers, plant managers, sales managers and assistant sales managers in the Western Area

who are directly involved in the production or sale of pipe, and to their successors within 30 days after hiring or appointment, and to retain in its files for a period of five years from the date of this Partial Final Judgment a written statement signed within 60 days after receipt thereof by each such employee setting forth the date he received a copy of this Partial Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Partial Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege.

A. Reasonable access, during office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, relating to any matters contained in this Partial Final Judgment; and

B. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of such defendant who may have counsel present, regarding any such matters.

Upon such written request such defendant shall submit such reports in writing with respect to any of the matters contained in this Partial Final Judgment as may from time to time be requested for the enforcement of this Partial Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone other than a duly authorized representative of the executive branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Partial Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Partial Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Partial Final Judgment, for the modification or termination of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: Dec. 8, 1967.

/s/ Martin Pence
United States District Judge

APPENDIX A

By submitting this bid the undersigned hereby certifies that said bid has not been made or prepared in collusion with any other manufacturer of pipe and that the prices, terms or conditions applicable to the sale thereof have not been communicated by or on behalf of the bidder to any such manufacturer and will not be so communicated to any such manufacturer prior to the official opening of said bid, in violation of any decree entered against bidder by the United States District Court for the Central District of California which may be applicable to said bid.

DATED:

.....

Signature of Officer or Employee of the Corporation

APPENDIX B

By issuing this quotation or any changes thereof, the undersigned certifies that this quotation and any such changes have not been made or prepared in collusion with any other manufacturer of pipe in violation of any decree entered against seller by the United States District Court for the Central District of California which may be applicable to said quotation.

Dated:

.....

Signature of Officer or Employee of the Corporation

Filed December 8, 1967.

[Endorsement omitted in printing]

Entered December 8, 1967.

[Endorsement omitted in printing]

[Certification omitted in printing]

Partial Final Judgment.

United States District Court, Central District of California.

United States of America, Plaintiff, vs. United Concrete Pipe Corp.; American Pipe and Construction Co.; Kaiser Steel Corporation; and United States Steel Corporation, Defendants. Civil No. 64-834-MP.

Plaintiff, United States of America, having filed its complaint herein on June 23, 1964, its first amended complaint on October 28, 1964 and its second amended complaint on December 2, 1965, and each of the consenting defendants United Concrete Pipe Corporation, Kaiser Steel Corporation and United States Steel Corporation, having appeared by its attorneys and each having filed its answer to such complaint denying the substantive allegations thereof; and plaintiff and consenting defendants, by their respective attorneys, having severally consented to the making and entry of this Partial Final Judgment pursuant to a stipulation entered into on September 28, 1967, without trial or adjudication of or finding on any issue of fact or law herein, and without this Partial Final Judgment constituting any evidence or admission by any party to said stipulation with respect to any such issue, and the Court having considered the matter and being duly advised,

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties as aforesaid,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of each party consenting hereto. The second amended complaint herein having presented more than one claim for relief and dismissal being sought as to Counts I and II, based on a partial price adjustment, the Court hereby determines that there is no just reason for delay and directs entry of this Partial Final Judgment as to the claim made in Count III.

The second amended complaint in Count III states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Partial Final Judgment:

A. "pipe" means "steel large diameter pressure pipe," as hereinafter defined, or "concrete large diameter pressure pipe," as hereinafter defined, which is sold and/or manufactured, or offered for sale, by any consenting defendant within the "Western Area," as hereinafter defined, for the conveyance of water or sewage on jobs where the specifications permit the use of either concrete large diameter pressure pipe or steel large diameter pressure pipe;

B. "steel large diameter pressure pipe" means heavy walled welded steel pipe which is manufactured in diameters of over 24 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

C. "concrete large diameter pressure pipe" means concrete pressure pipe, which ordinarily utilizes steel sheets or skelp in its manufacture, in diameters over 24 inches, sold for the conveyance of water and sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

D. "Western Area" means California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

E. "person" means an individual, partnership, firm, association, corporation or other legal or business entity.

III

The provisions of this Partial Final Judgment applicable to any consenting defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with such consenting defendant who shall have received actual notice of this Partial Final Judgment by personal service or otherwise, but shall not apply to transactions solely between any consenting defendant and its officers, directors or employees when acting in such capacity, or between any consenting defendant and its parent company, or between any consenting defendant and any of its subsidiaries or any subsidiary of its parent. This Partial Final Judgment shall not apply to conduct outside of the United States unless such conduct substantially affects the foreign or domestic commerce of the United States, but shall apply to sales by any consenting defendant to, or for the known use of, the plaintiff or any instrumentality or agency thereof.

IV

Each of the consenting defendants is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or claiming any right under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturer or seller of pipe, or with any association of said manufacturers, or with any company providing the services of lining or coating of pipe, in relation to pipe, to:

A. Fix or adopt prices, terms or conditions of sale;

B. Maintain or adhere to agreed upon prices;

C. Submit noncompetitive, collusive or rigged bids or quotations to any customer;

D. Allocate or divide orders, territories or customers;

E. Communicate with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally; or

F. Restrict production to certain types or sizes of pipe or restrict sales of pipe to any specified territory.

V

Each of the consenting defendants is enjoined and restrained from:

A. Communicating with any other manufacturer of pipe for the purpose of attempting to coerce or force such manufacturer to restrict its sales of pipe to any territory or to restrict its production of pipe to certain sizes or types;

B. Communicating with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job, or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally.

VI

Each of the consenting defendants is ordered and directed for a period of five years from the date of entry of this Partial Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local governmental authority, agency, or instrumentality for the sale of pipe, to supply, concurrently or within a reasonable time thereafter, a written certification by an officer or employee of such consenting defendant regularly having the authority to determine the price for the type of bid involved, in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of $25,000 to annex to such written quotation or include therein a written certification by an officer or employee of such consenting defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of such consenting defendant regularly having the authority to determine published prices, at the time of every generally published revision of its pub-

lished prices, terms or conditions of sale of pipe, that the decision to make such change was independently arrived at by such consenting defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Partial Final Judgment shall be deemed to prohibit any of the consenting defendants from:

A. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide purchase or sale or subcontract between them, or entering into or performing any such transaction;

B. Furnishing to distributors of its pipe suggested prices, terms or conditions relating to the resale of such pipe, or prescribing such prices, terms or conditions where it is otherwise lawful to do so;

C. Communicating to any other person providing the services of lining or coating pipe, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the lining or coating of pipe in connection with any proposed or actual bona fide transaction between them for the lin-

ing or for coating of pipe, or entering into or performing any such transaction; and

D. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide joint bid, quotation or joint venture by or between a consenting defendant and any other defendant in this action or any other person, where the job is of such size or nature, or performable at such time, that in good faith such consenting defendant believes that it is undesirable to handle the entire job alone and the transaction is denominated as or is known to the purchaser to be a joint bid, quotation or joint venture, or entering into or performing any such transaction.

VIII

Each of the consenting defendants is ordered and directed within 60 days from the date of entry of this Partial Final Judgment to furnish a copy of this Partial Final Judgment to each of its officers, plant managers, sales managers and assistant sales managers in the Western Area who are directly involved in the production or sale of pipe, and to their successors within 30 days after hiring or appointment, and to retain in its files for a period of five years from the date of this Partial Final Judgment a written statement signed within 60 days after receipt thereof by each such employee setting forth the date he received a copy of this Partial Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Partial Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any consenting defendant made to its principal office, be permitted, subject to any legally recognized privilege:

A. Reasonable access, during office hours of such consenting defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such consenting defendant, relating to any matters contained in this Partial Final Judgment; and

B. Subject to the reasonable convenience of such consenting defendant and without restraint or interference from it, to interview officers or employees of such consenting defendant, who may have counsel present, regarding any such matters.

Upon such written request such consenting defendant shall submit such reports in writing with respect to any of the matters contained in this Partial Final Judgment as may from time to time be requested for the enforcement of this Partial Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone other than a duly authorized representative of the executive branch

of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Partial Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Partial Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Partial Final Judgment, for the modification or termination of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: Dec. 8, 1967.

/s/ Martin Pence
United States District Judge

APPENDIX A

By submitting this bid the undersigned hereby certifies that said bid has not been made or prepared in collusion with any other manufacturer of pipe and that the prices, terms or conditions applicable to the sale thereof have not been communicated by or on behalf of the bidder to any such manufacturer and will not be so communicated to any such manufacturer prior to the official opening of said bid, in violation of any decree entered against bidder by the United States District Court for the Central District of California which may be applicable to said bid.

Dated:

.....

Signature of Officer or Employee of the Corporation

APPENDIX B

By issuing this quotation or any changes thereof, the undersigned certifies that this quotation and any such changes have not been made or prepared in collusion with any other manufacturer of pipe in violation of any decree entered against seller by the United States District Court for the Central District of California which may be applicable to said quotation.

Dated:

.....

Signature of Officer or Employee of the Corporation

Filed December 8, 1967.
[Endorsement omitted in printing]

Entered December 8, 1967.
[Endorsement omitted in printing]
[Certification omitted in printing]

Partial Final Judgment.

United States District Court, Central District of California.

United States of America, Plaintiff, vs. U.S. Industries, Inc.; Smith-Scott Co., Inc.; United States Steel Corporation; United Concrete Pipe Corp.; and American Pipe and Construction Co., Defendants. Civil No. 64-835-MP.

Plaintiff, United States of America, having filed its complaint herein on June 23, 1964, its first amended complaint on October 28, 1964 and its second amended complaint on December 2, 1965, and each of the consenting defendants U. S. Industries, Inc., Smith-Scott Co., Inc., United States Steel Corporation and United Concrete Pipe Corporation, having appeared by its attorneys and each having filed its answer to such complaint denying the substantive allegations thereof; and plaintiff and consenting defendants, by their respective attorneys, having severally consented to the making and entry of this Partial Final Judgment pursuant to a stipulation entered into on September 28, 1967, without trial or adjudication of or finding on any issue of fact or law herein, and without this Partial Final Judgment constituting any evidence or admission by any party to said stipulation with respect to any such issue, and the Court having considered the matter and being duly advised,

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties as aforesaid,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of each party consenting hereto. The second amended complaint herein having presented more than one claim for relief and dismissal being sought as to Counts I and II, based on a partial price adjustment, the Court hereby determines that there is no just reason for delay and directs entry of this Partial Final Judgment as to the claim made in Count III.

The second amended complaint in Count III states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Partial Final Judgment:

A. "pipe" means "steel small diameter pressure pipe," as hereinafter defined, or "concrete small diameter pressure pipe," as hereinafter defined, which is sold and/or manufactured, or offered for sale, by any consenting defendant within the "Western Area," as hereinafter defined, for the conveyance of water or sewage on jobs where the specifications permit the use of either concrete small diameter pressure pipe or steel small diameter pressure pipe.

B. "steel small diameter pressure pipe" means thin walled welded steel pipe, manufactured from steel plate in diameters of 12 inches to 48 inches and sold for the conveyance of water and sewage under internal pres-

sures exceeding 115 feet of head or 50 pounds per square inch.

C. "concrete small diameter pressure pipe" means concrete cylinder pipe, which utilizes steel sheets or skelp in its manufacture, in diameters from 12 inches to 48 inches and sold for the conveyance of water or sewage under internal pressure exceeding 115 feet of head or 50 pounds per square inch.

D. "Western Area" means California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

E. "person" means an individual, partnership, firm, association, corporation or other legal or business entity.

III

The provisions of this Partial Final Judgment applicable to any consenting defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with such consenting defendant who shall have received actual notice of this Partial Final Judgment by personal service or otherwise, but shall not apply to transactions solely between any consenting defendant and its officers, directors or employees when acting in such capacity, or between any consenting defendant and its parent company, or between any consenting defendant and any of its subsidiaries or any subsidiary of its parent. This Partial Final Judgment shall not apply to conduct outside of the United States unless such conduct substantially affects the foreign or domestic commerce of the United States, but shall apply to sales by any consenting defendant to, or for the known use of, the plaintiff or any instrumentality or agency thereof.

IV

Each of the consenting defendants is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or claiming any right under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturer or seller of pipe, or with any association of said manufacturers, or with any company providing the services of lining or coating of pipe, in relation to pipe, to:

A. Fix or adopt prices, terms or conditions of sale;

B. Maintain or adhere to agreed upon prices;

C. Submit noncompetitive, collusive or rigged bids or quotations to any customer;

D. Allocate or divide orders, territories or customers;

E. Communicate with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally; or

F. Restrict production to certain types or sizes of pipe or restrict sales of pipe to any specified territory.

V

Each of the consenting defendants is enjoined and restrained from:

A. Communicating with any other manufacturer of pipe for the purpose of attempting to coerce or force such manufacturer to restrict its sales of pipe to any

territory or to restrict its production of pipe to certain sizes or types;

B. Communicating with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job, or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally.

VI

Each of the consenting defendants is ordered and directed for a period of five years from the date of entry of this Partial Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local governmental authority, agency, or instrumentality for the sale of pipe, to supply, concurrently or within a reasonable time thereafter, a written certification by an officer or employee of such consenting defendant regularly having the authority to determine the price for the type of bid involved, in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of $25,000 to annex to such written quotation or include therein a written certification by an officer or employee of such consenting defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of such consenting defendant regularly

having the authority to determine published prices, at the time of every generally published revision of its published prices, terms or conditions of sale of pipe, that the decision to make such change was independently arrived at by such consenting defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Partial Final Judgment shall be deemed to prohibit any of the consenting defendants from:

A. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide purchase or sale or subcontract between them, or entering into or performing any such transaction;

B. Furnishing to distributors of its pipe suggested prices, terms or conditions relating to the resale of such pipe, or prescribing such prices, terms or conditions where it is otherwise lawful to do so;

C. Communicating to any other person providing the services of lining or coating pipe, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the lining or coating of pipe in connection with any proposed or actual bona fide transaction between them for the lining or for coating of pipe, or entering into or performing any such transaction; and

D. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide joint bid, quotation or joint venture by or between a consenting defendant and any other defendant in this action or any other person, where the job is of such size or nature, or performable at such time, that in good faith such consenting defendant believes that it is undesirable to handle the entire job alone and the transaction is denominated as or is known to the purchaser to be a joint bid, quotation or joint venture, or entering into or performing any such transaction.

VIII

Each of the consenting defendants is ordered and directed within 60 days from the date of entry of this Partial Final Judgment to furnish a copy of this Partial Final Judgment to each of its officers, plant managers, sales managers and assistant sales managers in the Western Area who are directly involved in the production or sale of pipe, and to their successors within 30 days after hiring or appointment, and to retain in its files for a period of five years from the date of this Partial Final Judgment a written statement signed within 60 days after receipt thereof by each such employee setting forth the date he received a copy of this Partial Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Partial Final Judgment, duly authorized representatives of the Department of Justice shall, on

written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any consenting defendant made to its principal office, be permitted, subject to any legally recognized privilege:

A. Reasonable access, during office hours of such consenting defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such consenting defendant, relating to any matters contained in this Partial Final Judgment; and

B. Subject to the reasonable convenience of such consenting defendant and without restraint or interference from it, to interview officers or employees of such consenting defendant, who may have counsel present, regarding any such matters.

Upon such written request such consenting defendant shall submit such reports in writing with respect to any of the matters contained in this Partial Final Judgment as may from time to time be requested for the enforcement of this Partial Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone other than a duly authorized representative of the executive branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Partial Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Partial Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Partial Final Judgment, for the modification or termination of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: Dec. 8, 1967.

/s/ Martin Pence
United States District Judge

APPENDIX A

By submitting this bid the undersigned hereby certifies that said bid has not been made or prepared in collusion with any other manufacturer of pipe and that the prices, terms or conditions applicable to the sale thereof have not been communicated by or on behalf of the bidder to any such manufacturer and will not be so communicated to any such manufacturer prior to the official opening of said bid, in violation of any decree entered against bidder by the United States District Court for the Central District of California which may be applicable to said bid.

Dated:

.....

Signature of Officer or Employee of the Corporation

APPENDIX B

By issuing this quotation or any changes thereof, the undersigned certifies that this quotation and any such changes have not been made or prepared in collusion with any other manufacturer of pipe in violation of any decree entered against seller by the United States District Court for the Central District of California which may be applicable to said quotation.

Dated:

.....

Signature of Officer or Employee of the Corporation

Filed December 8, 1967.
[Endorsement omitted in printing]

Entered December 8, 1967.
[Endorsement omitted in printing]
[Certification omitted in printing]

Partial Final Judgment.

United States District Court, Central District of California.

United States of America, Plaintiff, vs. United States Steel Corporation; Smith-Scott Co., Inc.; and U.S. Industries, Inc., Defendants. Civil No. 64-836-MP.

Plaintiff, United States of America, having filed its complaint herein on June 23, 1964, its first amended complaint on October 28, 1964 and its second amended complaint on December 2, 1965, and each of the defendants United States Steel Corporation, Smith-Scott Co., Inc. and U.S. Industries, Inc., having appeared by its attorneys and each having filed its answer to such complaint denying the substantive allegations thereof; and plaintiff and defendants, by their respective attorneys, having severally consented to the making and entry of this Partial Final Judgment pursuant to a stipulation entered into on September 28, 1967, without trial or adjudication of or finding on any issue of fact or law herein, and without this Partial Final Judgment constituting any evidence or admission by any party to said stipulation with respect to any such issue, and the Court having considered the matter and being duly advised,

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties as aforesaid,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of each party consenting hereto. The second

amended complaint herein having presented more than one claim for relief and dismissal being sought as to Counts I and II, based on a partial price adjustment, the Court hereby determines that there is no just reason for delay and directs entry of this Partial Final Judgment as to the claim made in Count III.

The second amended complaint in Count III states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Partial Final Judgment:

A. "pipe" means "steel small diameter pressure pipe," which is thin walled welded steel pipe which is manufactured in diameters of 4 inches to 48 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

B. "Western Area" means California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

C. "person" means an individual, partnership, firm, association, corporation or other legal or business entity.

III

The provisions of this Partial Final Judgment applicable to any defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with such defendant who shall

have received actual notice of this Partial Final Judgment by personal service or otherwise, but shall not apply to transactions solely between any defendant and its officers, directors or employees when acting in such capacity, or between any defendant and its parent company, or between any defendant and any of its subsidiaries or any subsidiary of its parent. This Partial Final Judgment shall not apply to conduct outside of the United States unless such conduct substantially affects the foreign or domestic commerce of the United States, but shall apply to sales by any defendant to, or for the known use of, the plaintiff or any instrumentality or agency thereof.

IV

Each of the defendants is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or claiming any right under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturer or seller of pipe, or with any association of said manufacturers, or with any company providing the services of lining or coating of pipe, in relation to pipe, to:

A. Fix or adopt prices, terms or conditions of sale;

B. Maintain or adhere to agreed upon prices;

C. Submit noncompetitive, collusive or rigged bids or quotations to any customer;

D. Allocate or divide orders, territories or customers;

E. Communicate with any manufacturer or seller of pipe or with any company providing the service of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions ap-

plicable to the sale of pipe to third persons before the bid opening of any such specific job or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally; or

F. Restrict production to certain types or sizes of pipe or restrict sales of pipe to any specified territory.

V

Each of the defendants is enjoined and restrained from:

A. Communicating with any other manufacturer of pipe for the purpose of attempting to coerce or force such manufacturer to restrict its sales of pipe to any territory or to restrict its production of pipe to certain sizes or types;

B. Communicating with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job, or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally.

VI

Each of the defendants is ordered and directed for a period of five years from the date of entry of this Partial Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local governmental authority, agency, or instrumentality for the sale of pipe, to supply, concurrently or within a reasonable time thereafter, a written certification by an officer or employee of such defendant regularly having the authority to de-

termine the price for the type of bid involved, in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of $25,000 to annex to such written quotation or include therein a written certification by an officer or employee of such defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of such defendant regularly having the authority to determine published prices, at the time of every generally published revision of its published prices, terms or conditions of sale of pipe, that the decision to make such change was independently arrived at by such defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Partial Final Judgment shall be deemed to prohibit any of the defendants from:

A. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide purchase or sale or subcontract between them, or entering into or performing any such transaction;

B. Furnishing to distributors of its pipe suggested prices, terms or conditions relating to the resale of such pipe, or prescribing such prices, terms or conditions where it is otherwise lawful to do so;

C. Communicating to any other person providing the services of lining or coating pipe, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the lining or coating of pipe in connection with any proposed or actual bona fide transaction between them for the lining or for coating of pipe, or entering into or performing any such transaction; and

D. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide joint bid, quotation or joint venture by or between a defendant and any other defendant in this action or any other person, where the job is of such size or nature, or performable at such time, that in good faith such defendant believes that it is undesirable to handle the entire job alone and the transaction is denominated as or is known to the purchaser to be a joint bid, quotation or joint venture, or entering into or performing any such transaction.

VIII

Each of the defendants is ordered and directed within 60 days from the date of entry of this Partial Final Judgment to furnish a copy of this Partial Final Judgment to each of its officers, plant managers, sales managers and assistant sales managers in the Western Area who are directly involved in the production or sale of pipe, and to their successors within 30 days after hiring

or appointment, and to retain in its files for a period of five years from the date of this Partial Final Judgment a written statement signed within 60 days after receipt thereof by each such employee setting forth the date he received a copy of this Partial Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Partial Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

A. Reasonable access, during office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, relating to any matters contained in this Partial Final Judgment; and

B. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters.

Upon such written request such defendant shall submit such reports in writing with respect to any of the matters contained in this Partial Final Judgment as may

from time to time be requested for the enforcement of this Partial Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone other than a duly authorized representative of the executive branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Partial Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Partial Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Partial Final Judgment, for the modification or termination of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: Dec. 8, 1967.

/s/ Martin Pence
United States District Judge

APPENDIX A

By submitting this bid the undersigned hereby certifies that said bid has not been made or prepared in collusion with any other manufacturer of pipe and that the prices, terms or conditions applicable to the sale thereof have not been communicated by or on behalf of the bidder to any such manufacturer prior to the official opening of said bid, in violation of any decree entered against bidder by the United States District Court for the Central District of California which may be applicable to said bid.

Dated:

.....

Signature of Officer or Employee of the Corporation

APPENDIX B

By issuing this quotation or any changes thereof, the undersigned certifies that this quotation and any such changes have not been made or prepared in collusion with any other manufacturer of pipe in violation of any decree entered against seller by the United States District Court for the Central District of California which may be applicable to said quotation.

Dated:

.....

Signature of Officer or Employee of the Corporation

Filed December 8, 1967.
[Endorsement omitted in printing]

Entered December 8, 1967.
[Endorsement omitted in printing]
[Certification omitted in printing]

Final Judgment Against American Pipe and Construction Co.

United States District Court, Central District of California.

United States of America, Plaintiff, vs. American Pipe and Construction Co., and United Concrete Pipe Corporation, Defendants. Civil No. 64-832-MP.

Plaintiff, United States of America, having filed its complaint herein on June 23, 1964, its first amended complaint on October 28, 1964 and its second amended complaint on December 2, 1965, and the consenting defendant, American Pipe and Construction Co., having appeared by its attorney and having filed its answer to such complaint denying the substantive allegations thereof; and plaintiff and consenting defendant, by their respective attorneys, having severally consented to the making and entry of this Final Judgment pursuant to a stipulation entered into on April 23, 1968, without trial or adjudication of or finding on any issue of fact or law herein, and without this Final Judgment constituting any evidence or admission by either party to said stipulation with respect to any such issue, and the Court having considered the matter and being duly advised,

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties as aforesaid,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of the consenting defendant. The second

amended complaint herein having presented more than one claim for relief and dismissal being sought as to Counts I and II, based on a partial price adjustment, the Court hereby determines that there is no just reason for delay and directs entry of this Final Judgment as to the claim made in Count III.

The second amended complaint in Count III states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

A. "pipe" means pipe constructed of concrete either with or without metal components, including both pressure and nonpressure pipe, sold and/or manufactured by the consenting defendant within the Western Area, as that term is hereinafter defined, for the conveyance of water or sewage;

B. "Western Area" means California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

C. "person" means an individual, partnership, firm, association, corporation or other legal or business entity.

III

The provisions of this Final Judgment applicable to the consenting defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with the consenting defendant

who shall have received actual notice of this Final Judgment by personal service or otherwise, but shall not apply to transactions solely between the consenting defendant and its officers, directors or employees when acting in such capacity, or between the consenting defendant and any of its subsidiaries. This Final Judgment shall not apply to conduct outside of the United States unless such conduct substantially affects the foreign or domestic commerce of the United States, but shall apply to sales by the consenting defendant to, or for the known use of, the plaintiff or any instrumentality or agency thereof.

IV

The consenting defendant is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or claiming any right under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturer or seller of pipe, or with any association of said manufacturers, or with any company providing the services of lining or coating of pipe, in relation to pipe, to:

A. Fix or adopt prices, terms or conditions of sale;

B. Maintain or adhere to agreed upon prices;

C. Submit noncompetitive, collusive or rigged bids or quotations to any customer;

D. Allocate or divide orders, territories or customers;

E. Communicate with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid

opening of any such specific job or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally; or

F. Restrict production to certain types or sizes of pipe or restrict sales of pipe to any specified territory.

V

The consenting defendant is enjoined and restrained from:

A. Communicating with any other manufacturer of pipe for the purpose of attempting to coerce or force such manufacturer to restrict its sales of pipe to any territory or to restrict its production of pipe to certain sizes or types;

B. Communicating with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job, or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally.

VI

The consenting defendant is ordered and directed for a period of five years from the date of entry of this Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local governmental authority, agency, or instrumentality for the sale of pipe, to supply, concurrently, or within a reasonable time thereafter, a written certification by an officer or employee of the consenting defendant regularly having the authority to determine the price for the type of bid involved,

in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of $25,000 to annex to such written quotation or include therein a written certification by an officer or employee of the consenting defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of the consenting defendant regularly having the authority to determine published prices, at the time of every generally published revision of its published prices, terms or conditions of sale of pipe, that the decision to make such change was independently arrived at by the consenting defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Final Judgment shall be deemed to prohibit the consenting defendant from:

A. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide purchase or sale or subcontract between them, or entering into or performing any such transaction.

B. Furnishing to distributors of its pipe suggested prices, terms or conditions relating to the resale of such pipe, or prescribing such prices, terms or conditions where it is otherwise lawful to do so;

C. Communicating to any other person providing the services of lining or coating pipe, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the lining or coating of pipe in connection with any proposed or actual bona fide transaction between them for the lining or for coating of pipe, or entering into or performing any such transaction; and

D. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide joint bid, quotation or joint venture by or between the consenting defendant and any other defendant in this action or any other person, where the job is of such size or nature, or performable at such time, that in good faith the consenting defendant believes that it is undesirable to handle the entire job alone and the transaction is denominated as or is known to the purchaser to be a joint bid, quotation or joint venture, or entering into or performing any such transaction.

VIII

The consenting defendant is ordered and directed within 60 days from the date of entry of this Final Judgment to furnish a copy of this Final Judgment to each of its officers, plant managers, sales managers and assistant sales managers in the Western Area who are directly involved in the production or sale of pipe, and to their successors within 30 days after hiring or ap-

pointment, and to retain in its files for a period of five years from the date of this Final Judgment a written statement signed within 60 days after receipt thereof by each such employee setting forth the date he received a copy of this Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the consenting defendant made to its principal office, be permitted, subject to any legally recognized privilege:

A. Reasonable access, during office hours of the consenting defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the consenting defendant, relating to any matters contained in this Final Judgment; and

B. Subject to the reasonable convenience of the consenting defendant and without restraint or interference from it, to interview officers or employees of the consenting defendant, who may have counsel present, regarding any such matters.

Upon such written request the consenting defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may

from time to time be requested for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone other than a duly authorized representative of the executive branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification or termination of any of the provisions hereof for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: May 23, 1968.

/s/ Martin Pence,
United States District Judge

APPENDIX A

By submitting this bid the undersigned hereby certifies that said bid has not been made or prepared in collusion with any other manufacturer of pipe and that the prices, terms or conditions applicable to the sale thereof have not been communicated by or on behalf of the bidder to any such manufacturer and will not be so communicated to any such manufacturer prior to the official opening of said bid, in violation of any decree entered against bidder by the United States District Court for the Central District of California which may be applicable to said bid.

Dated:

.....

Signature of Officer or Employee of the Corporation

APPENDIX B

By issuing this quotation or any changes thereof, the undersigned certifies that this quotation and any such changes have not been made or prepared in collusion with any other manufacturer of pipe in violation of any decree entered against seller by the United States District Court for the Central District of California which may be applicable to said quotation.

Dated:

.....

Signature of Officer or Employee of the Corporation

Filed May 24, 1968.
[Endorsement omitted in printing]

Entered May 27, 1968.
[Endorsement omitted in printing]
[Certification omitted in printing]

Final Judgment Against American Pipe and Construction Co.

United States District Court, Central District of California.

United States of America, Plaintiff, vs. United Concrete Pipe Corp.; American Pipe and Construction Co.; Kaiser Steel Corporation; and United States Steel Corporation, Defendants. Civil No. 64-834-MP.

Plaintiff, United States of America, having filed its complaint herein on June 23, 1964, its first amended complaint on October 28, 1964 and its second amended complaint on December 2, 1965, and the consenting defendant, American Pipe and Construction Co. having appeared by its attorney and having filed its answer to such complaint denying the substantive allegations thereof; and plaintiff and consenting defendant, by their respective attorneys, having severally consented to the making and entry of this Final Judgment pursuant to a stipulation entered into on April 23, 1968, without trial or adjudication of or finding on any issue of fact or law herein, and without this Final Judgment constituting any evidence or admission by any party to said stipulation with respect to any such issue, and the Court having considered the matter and being duly advised,

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties as aforesaid,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of the party consenting hereto. The second amended complaint herein having presented more than one claim for relief and dismissal being sought as to Counts I and II, based on a partial price adjustment, the Court hereby determines that there is no just reason for delay and directs entry of this Final Judgment as to the claim made in Count III.

The second amended complaint in Count III states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

A. "pipe" means "steel large diameter pressure pipe," as hereinafter defined, or "concrete large diameter pressure pipe," as hereinafter defined, which is sold and/or manufactured, or offered for sale, by the consenting defendant within the "Western Area," as hereinafter defined, for the conveyance of water or sewage on jobs where the specifications permit the use of either concrete large diameter pressure pipe or steel large diameter pressure pipe;

B. "steel large diameter pressure pipe" means heavy walled welded steel pipe which is manufactured in diameters of over 24 inches and sold for the conveyance of water or sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch;

C. "concrete large diameter pressure pipe" means concrete pressure pipe, which ordinarily utilizes steel sheets or skelp in its manufacture, in diameters over 24 inches, sold for the conveyance of water and sewage under internal presures exceeding 115 feet of head or 50 pounds per square inch;

D. "Western Area" means California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

E. "person" means an individual, partnership, firm, association, corporation or other legal or business entity.

III

The provisions of this Final Judgment applicable to the consenting defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with the consenting defendant who shall have received actual notice of this Final Judgment by personal service or otherwise, but shall not apply to transactions solely between the consenting defendant and its officers, directors or employees when acting in such capacity, or between the consenting defendant and any of its subsidiaries. This Final Judgment shall not apply to conduct outside of the United States unless such conduct substantially affects the foreign or domestic commerce of the United States, but shall apply to sales by the consenting defendant to, or for the known use of, the plaintiff or any instrumentality or agency thereof.

IV

The consenting defendant is enjoined and restrained from directly or indirectly in any manner entering into,

adhering to, or claiming any right under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturer or seller of pipe, or with any association of said manufacturers, or with any company providing the services of lining or coating of pipe, in relation to pipe, to:

A. Fix or adopt prices, terms or conditions of sale;

B. Maintain or adhere to agreed upon prices;

C. Submit noncompetitive, collusive or rigged bids or quotations to any customer;

D. Allocate or divide orders, territories or customers;

E. Communicate with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally; or

F. Restrict production to certain types or sizes of pipe or restrict sales of pipe to any specified territory.

V

The consenting defendant is enjoined and restrained from:

A. Communicating with any other manufacturer of pipe for the purpose of attempting to coerce or force such manufacturer to restrict its sales of pipe to any territory or to restrict its production of pipe to certain sizes or types;

B. Communicating with any manufacturer or seller of pipe or with any company providing the services of

lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job, or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally.

VI

The consenting defendant is ordered and directed for a period of five years from the date of entry of this Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local governmental authority, agency, or instrumentality for the sale of pipe, to supply, concurrently or within a reasonable time thereafter, a written certification by an officer or employee of the consenting defendant regularly having the authority to determine the price for the type of bid involved, in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of $25,000 to annex to such written quotation or include therein a written certification by an officer or employee of the consenting defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of the consenting defendant regularly having the authority to determine published prices, at the time of every generally published revision of its published prices, terms or conditions of sale of pipe, that the decision to make such change was independ-

ently arrived at by the consenting defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Final Judgment shall be deemed to prohibit the consenting defendant from:

A. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide purchase or sale or subcontract between them, or entering into or performing any such transaction;

B. Furnishing to distributors of its pipe suggested prices, terms or conditions relating to the resale of such pipe, or prescribing such prices, terms or conditions where it is otherwise lawful to do so;

C. Communicating to any other person providing the services of lining or coating pipe, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the lining or coating of pipe in connection with any proposed or actual bona fide transaction between them for the lining or for coating of pipe, or entering into or performing any such transaction; and

D. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or

actual bona fide joint bid, quotation or joint venture by or between the consenting defendant and any other defendant in this action or any other person, where the job is of such size or nature, or performable at such time, that in good faith the consenting defendant believes that it is undesirable to handle the entire job alone and the transaction is denominated as or is known to the purchaser to be a joint bid, quotation or joint venture, or entering into or performing any such transaction.

VIII

The consenting defendant is ordered and directed within 60 days from the date of entry of this Final Judgment to furnish a copy of this Final Judgment to each of its officers, plant managers, sales managers and assistant sales managers in the Western Area who are directly involved in the production or sale of pipe, and to their successors within 30 days after hiring or appointment, and to retain in its files for a period of five years from the date of this Final Judgment a written statement signed within 60 days after receipt thereof by each such employee setting forth the date he received a copy of this Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attor-

ney General in charge of the Antitrust Division, and on reasonable notice to the consenting defendant made to its principal office, be permitted, subject to any legally recognized privilege:

A. Reasonable access, during office hours of the consenting defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such consenting defendant, relating to any matters contained in this Final Judgment; and

B. Subject to the reasonable convenience of the consenting defendant and without restraint or interference from it, to interview officers or employees of the consenting defendant, who may have counsel present, regarding any such matters.

Upon such written request the consenting defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone other than a duly authorized representative of the executive branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification or termination of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: May 22, 1968.

/s/ Martin Pence
United States District Judge

[Appendices A and B omitted in printing. See A 292-93, *supra.*]
Filed May 24, 1968.

[Endorsement omitted in printing]
Entered May 27, 1968.
[Endorsement omitted in printing]

Final Judgment Against American Pipe and Construction Co.

United States District Court, Central District of California.

United States of America, Plaintiff, vs. U.S. Industries, Inc.; Smith-Scott Co., Inc.; United States Steel Corporation; United Concrete Pipe Corp.; and American Pipe and Construction Co., Defendants. Civil No. 64-835-MP.

Plaintiff, United States of America, having filed its complaint herein on June 23, 1964, its first amended complaint on October 28, 1964 and its second amended complaint on December 2, 1965, and the consenting defendant American Pipe and Construction Co., having appeared by its attorney and having filed its answer to such complaint denying the substantive allegations thereof; and plaintiff and consenting defendant, by their respective attorneys, having severally consented to the making and entry of this Final Judgment pursuant to a stipulation entered into on April 23, 1968, without trial or adjudication of or finding on any issue of fact or law herein, and without this Final Judgment constituting any evidence or admission by any party to said stipulation with respect to any such issue, and the Court having considered the matter and being duly advised,

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties as aforesaid,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of each party consenting hereto. The second

amended complaint herein having presented more than one claim for relief and dismissal being sought as to Counts I and II, based on a partial price adjustment, the Court hereby determines that there is no just reason for delay and directs entry of this Final Judgment as to the claim made in Count III.

The second amended complaint in Count III states a claim upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended.

II

As used in this Final Judgment:

A. "Pipe" means "steel small diameter pressure pipe," as hereinafter defined, or "concrete small diameter pressure pipe," as hereinafter defined, which is sold and/or manufactured, or offered for sale, by the consenting defendant within the "Western Area," as hereinafter defined, for the conveyance of water or sewage on jobs where the specifications permit the use of either concrete small diameter pressure pipe or steel small diameter pressure pipe.

B. "steel small diameter pressure pipe" means thin walled welded steel pipe, manufactured from steel plate in diameters of 12 inches to 48 inches and sold for the conveyance of water and sewage under internal pressures exceeding 115 feet of head or 50 pounds per square inch.

C. "concrete small diameter pressure pipe" means concrete cylinder pipe, which utilizes steel sheets or skelp in its manufacture, in diameters from 12 inches to 48 inches and sold for the conveyance of water or sewage

under internal pressure exceeding 115 feet of head or 59 pounds per square inch.

D. "Western Area" means California, Oregon, Washington, Arizona, New Mexico, Utah, Wyoming, Nevada, Idaho and Hawaii; and

E. "person" means an individual, partnership, firm, association, corporation or other legal or business entity.

III

The provisions of this Final Judgment applicable to the consenting defendant shall also apply to each of its subsidiaries, successors, assigns, officers, directors, agents and employees, and to all other persons in active concert or participation with the consenting defendant who shall have received actual notice of this Final Judgment by personal service or otherwise, but shall not apply to transactions solely between the consenting defendant and its officers, directors or employees when acting in such capacity, or between the consenting defendant and any of its subsidiaries. This Final Judgment shall not apply to conduct outside of the United States unless such conduct substantially affects the foreign or domestic commerce of the United States, but shall apply to sales by the consenting defendant to, or for the known use of, the plaintiff or any instrumentality or agency thereof.

IV

The consenting defendant is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, or claiming any right under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturer or seller of pipe, or with any association of said manufacturers, or with any

company providing the services of lining or coating of pipe, in relation to pipe, to:

A. Fix or adopt prices, terms or conditions of sale;

B. Maintain or adhere to agreed upon prices;

C. Submit noncompetitive, collusive or rigged bids or quotations to any customer;

D. Allocate or divide orders, territories or customers;

E. Communicate with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid opening of any such specific job or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally; or

F. Restrict production to certain types or sizes of pipe or restrict sales of pipe to any specified territory.

V

The consenting defendant is enjoined and restrained from:

A. Communicating with any other manufacturer of pipe for the purpose of attempting to coerce or force such manufacturer to restrict its sale of pipe to any territory or to restrict its production of pipe to certain sizes or types;

B. Communicating with any manufacturer or seller of pipe or with any company providing the services of lining or coating pipe, information about any specific job concerning bids, prices, terms or conditions applicable to the sale of pipe to third persons before the bid

opening of any such specific job, or, in the absence of such bid opening, until after the release of such information publicly or to the trade generally.

VI

The consenting defendant is ordered and directed for a period of five years from the date of entry of this Final Judgment:

A. In connection with any sealed bid submitted by it to any Federal, State or local governmental authority, agency, or instrumentality for the sale of pipe, to supply, concurrently or within a reasonable time thereafter, a written certification by an officer or employee of such consenting defendant regularly having the authority to determine the price for the type of bid involved, in substantially the form of Appendix A hereto or containing the substance thereof;

B. In connection with any formal written quotation for the sale of pipe in excess of $25,000 to annex to such written quotation or include therein a written certification by an officer or employee of the consenting defendant regularly having the authority to determine the price for the type of quotation involved, in substantially the form of Appendix B hereto or containing the substance thereof;

C. To certify in writing through one of its officers or an employee of the consenting defendant regularly having the authority to determine published prices, at the time of every generally published revision of its published prices, terms or conditions of sale of pipe, that the decision to make such change was independently arrived at by the consenting defendant and not as the result of any agreement or understanding with any competitor, and further to retain in its files the

aforesaid certifications for a period of five years from the date thereof, which certifications shall be made available to plaintiff for inspection upon reasonable written demand.

VII

Nothing contained in this Final Judgment shall be deemed to prohibit the consenting defendant from:

A. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide purchase or sale or subcontract between them, or entering into or performing any such transaction;

B. Furnishing to distributors of its pipe suggested prices, terms or conditions relating to the resale of such pipe, or prescribing such prices, terms or conditions where it is otherwise lawful to do so;

C. Communicating to any other person providing the services of lining or coating pipe, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the lining or coating of pipe in connection with any proposed or actual bona fide transaction between them for the lining or for coating of pipe, or entering into or performing any such transaction; and

D. Communicating to any other person, including any of the defendants in this action, information concerning bids, prices, terms or conditions applicable to the sale of pipe in connection with any proposed or actual bona fide joint bid, quotation or joint venture by or between the consenting defendant and any other defendant in this action or any other person, where the job is of such size or nature, or performable at

such time, that in good faith the consenting defendant believes that it is undesirable to handle the entire job alone and the transaction is denominated as or is known to the purchaser to be a joint bid, quotation or joint venture, or entering into or performing any such transaction.

VIII

The consenting defendant is ordered and directed within 60 days from the date of entry of this Final Judgment to furnish a copy of this Final Judgment to each of its officers, plant managers, sales managers and assistant sales managers in the Western Area who are directly involved in the production or sale of pipe, and to their successors within 30 days after hiring or appointment, and to retain in its files for a period of five years from the date of this Final Judgment a written statement signed within 60 days after receipt thereof by each such employee setting forth the date he received a copy of this Final Judgment, his title, his place of employment and the name of his immediate superior.

IX

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the consenting defendant made to its principal office, be permitted, subject to any legally recognized privilege:

A. Reasonable access, during office hours of the consenting defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the

consenting defendant, relating to any matters contained in this Final Judgment; and

B. Subject to the reasonable convenience of the consenting defendant and without restraint or interference from it, to interview officers or employees of the consenting defendant, who may have counsel present, regarding any such matters.

Upon such written request the consenting defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to anyone other than a duly authorized representative of the executive branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification or termination of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of violations hereof.

Dated: May 22, 1968.

/s/ Martin Pence
United States District Judge

APPENDIX A

By submitting this bid the undersigned hereby certifies that said bid has not been made or prepared in collusion with any other manufacturer of pipe and that the prices, terms or conditions applicable to the sale thereof have not been communicated by or on behalf of the bidder to any such manufacturer and will not be so communicated to any such manufacturer prior to the official opening of said bid, in violation of any decree entered against bidder by the United States District Court for the Central District of California which may be applicable to said bid.

Dated:

.....

Signature of Officer or Employee of the Corporation

APPENDIX B

By issuing this quotation or any changes thereof, the undersigned certifies that this quotation and any such changes have not been made or prepared in collusion with any other manufacturer of pipe in violation of any decree entered against seller by the United States District Court for the Central District of California which may be applicable to said quotation.

Dated:

.....

Signature of Officer or Employee of the Corporation

Filed May 24, 1968.
[Endorsement omitted in printing]
Entered May 27, 1968.
[Endorsement omitted in printing]

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